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No. 47] NEW DELHI, SATURDAY, NOVEMBER 25, 1989/AGRAHAYANA 4, 1911

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में  
रखा जा सके

Separate Paging is given to this Part in order that it may be filed as a  
separate compilation

भाग II—खण्ड ३—उप-खण्ड (II)  
PART II—Section 3—Sub-Section (II)

(रक्षा मंत्रालय को छोड़ कर) भारत सरकार के मंत्रालयों द्वारा जारी किए गए सांविधिक आदेश और अधिसूचनाएं  
Statutory Orders and Notifications Issued by the Ministries of the Government of India (other than  
the Ministry of Defence)

गृह मंत्रालय

नई दिल्ली, ७ नवम्बर, १९८९

का. प्रा. २९४३.—भारत के महा पंजीयक के नियंत्रणाधीन  
जनगणना कार्यालय, प्रमुखावल प्रवेश, शिलोंग में हिन्दी का कार्यसाधक  
ज्ञान रखने वाले कर्मचारियों की संख्या ८०% से कम हो जाने के कारण  
केन्द्रीय सरकार एतद्वारा उपरोक्त कार्यालय को धनविमुक्ति करती है।

[सं. १२०१७/१/८९-हिन्दी]

बी. एस. सहगल उप सचिव

MINISTRY OF HOME AFFAIRS

New Delhi, the 7th November, 1989

S.O. 2943.—The Central Government hereby denotifies  
the office of the Director, Census Operations, Arunachal  
Pradesh, Shillong, under the Registrar General of India as  
the percentage of Hindi knowing staff there has come down  
below 80 %.

[No. 12017/1/89-Hindi]  
B. S. SEHGAL, Dy. Secy

वित्त मंत्रालय

(प्राथमिक कार्य विभाग)

(बैंकिंग प्रभाग)

नई दिल्ली, ६ नवम्बर, १९८९

का. प्रा. २९४४.—बैंककारी विनियमन अधिनियम, १९४९ (१९४९  
का १०) की धारा ५३ द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय  
सरकार, भारतीय रिज़र्व बैंक की सिफारिशों पर, एतद्वारा घोषणा करती  
है कि उक्त अधिनियम की धारा १९ की उपधारा (२) के उपबंध  
यूनाइटेड बैंक आफ इण्डिया, कलकत्ता पर १३ नवम्बर, १९९१ तक उस  
सीमा तक लागू नहीं होंगे जहां तक उनका संबंध गिरबीदार के रूप में  
मैमर्स बंगाल इन्वेंचर्स लि. के शेयर की उसकी धारिता से है।

[सं. १५/१८/८७-बी.प्रो.-III]

MINISTRY OF FINANCE

(Department of Economic Affairs)

(Banking Division)

New Delhi, the 6th November, 1989

S.O. 2944.—In exercise of the powers conferred  
by section 53 of the Banking Regulation Act, 1949,

(10 of 1949) the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-section (2) of section 19 of said Act shall not apply to United Bank of India, Calcutta upto 13th November, 1991 in so far as they relate to its holding of the shares of M/s. Bengal Enamel Works Ltd. as pledgee.

[No. 15/18/87-B.O. III]

का.आ. 2945.—बैंककारी विनियमन अधिनियम, 1949 (1949 का 10) की धारा 53 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार, भारतीय रिजर्व बैंक की सिफारिशों पर, एतद्वारा घोषणा करती है कि उक्त अधिनियम की धारा 19 की उपधारा (2) के उपबंध यूनाइटेड बैंक ऑफ इण्डिया, कलकत्ता पर 4 नवम्बर, 1990 तक उस सीमा तक लागू नहीं होंगे जहाँ तक उनका संबंध गिरबीदार के रूप में मेसर्स निब्रो लि. के शेयरों की धारिता से है।

[सं. 15/11/88-बी.ओ.-III]  
प्राण नाथ, अवसर सचिव

S.O. 2945.—In exercise of the powers conferred by section 53 of the Banking Regulation Act, 1949, (10 of 1949), the Central Government, on the recommendation of the Reserve Bank of India, hereby declares that the provisions of sub-section (2) of section 19 of the said Act shall not apply to United Bank of India, Calcutta upto 4th November, 1990 in so far as they relate to its holding of the shares of M/s. Nibro Ltd., as pledgee.

[No. 15/11/83-B.O.III]

PRAN NATH, Under Secy.

ऊर्जा मंत्रालय  
(कोयला विभाग)

शुद्धि पत्र

दिल्ली, 6 नवम्बर, 1989

का.आ. 2946:—भारत के राजपत्र भाग 2, खंड 3, उपखण्ड (ii) तारीख 17 जून, 1989 के पृष्ठ 1722-1723 पर प्रकाशित भारत सरकार के ऊर्जा मंत्रालय (कोयला विभाग) की अधिसूचना का.आ.सं. 1372 दिनांक 15 मई, 1989 में:

पृष्ठ 1722 पर:

अधिसूचना में पैरा 3 में "437" के स्थान पर "427" पढ़ें।

[का.सं. 43015/1/89-एसे.एम. डब्ल्यू]

MINISTRY OF ENERGY

(Department of Coal)

CORRIGENDUM

New Delhi, the 6th November, 1989

S.O. 2946.—In the notification of the Government of India in the Ministry of Energy (Department of Coal) No. S.O. 1372 dated the 15th May, 1989, published at pages 1723 to 1724 of the Gazette of India, Part-II, Section-3, Sub-section (ii) dated the 17th June, 1987,

at page 1724,

1. in the schedule, in column number 6 (Area in hectares) in village Pisgaon for "130.00" read "310.00";
2. for total area "2938.25 acres" read "2928.25 acres".

[No. 43015/1/89-LSW]

शुद्धि पत्र

का.आ. 2947:—भारत के प्रसाधारण राजपत्र भाग-2, खंड 3, उपखण्ड (ii) तारीख 9 जून, 1989 में पृष्ठ 2 पर प्रकाशित भारत सरकार के ऊर्जा मंत्रालय, कोयला विभाग की अधिसूचना सं. का.आ. 432 (इ) तारीख 9 जून, 1989 में

पृष्ठ 2 पर-अनुसूची में

- (1) स्तम्भ "क्षेत्र एकड़ों में" के स्थान पर "क्षेत्र हेक्टरों में" पढ़िए।
- (2) क्रम संख्या 3, "48.32" के स्थान पर "49.32" पढ़िए।
- (3) क्रम संख्या 4, "152.34" के स्थान पर "162.34" पढ़िए।

[सं. 43015/2/87-सी.ए./एल.एस. डब्ल्यू]

बी.बी. राव, अवसर सचिव

CORRIGENDUM

S.O. 2947.—In the notification of the Government of India in the Ministry of Energy (Department of Coal), Number S.O. 432(E), dated the 9th June, 1989, published in the Gazette of India Extraordinary, Part-II, Section-3, Sub-Section (ii), dated the 9th June, 1989, at page 4, in the Schedule, against serial number 13, in column 6, for "4683.56" read "683.56".

[No. 43015/2/87-CA|LSW]  
B. B. RAO, Under Secy.

पेट्रोलियम और प्राकृतिक गैस मंत्रालय

नई दिल्ली, 6 नवम्बर, 1989

का. आ. 2948.—यतः पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का. आ. सं. 1554 तारीख 3-5-88 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार के पाइपलाइनों को बिछाने के लिए अर्जित करने का अपना आग्रह घोषित कर दिया था ;

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है ;

और प्राये, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है ;

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के लिए एतद्वारा अर्जित किया जाता है ,

और आगे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय तेल और प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगा।

## अनुसूची

नाथकडी सी.टी.एफ. से सरखेज तक पाइपलाइन बिछाने के लिए

राज्य: गुजरात; जिला: मेहसाणा; तालुका: कलोल

गांव	सर्वे नं.	हेक्टेयर	अर.	सेन्टी.
1	2	3	4	5
मूलसानी	109	0	16	00
	110	0	14	40
	111	0	60	20
	114	0	27	00
	113	0	13	80
	115	0	04	60
	162	0	23	60
	151	0	25	40
	150	0	31	90
	154	0	04	50
	155	0	19	20
	156	0	19	40
	180	0	18	20
	181	0	13	00

[सं. ओ-11027/98/38-ओ एन ओ-डी-III]

## MINISTRY OF PETROLEUM &amp; NATURAL GAS

New Delhi, the 6th November, 1989

S.O. 2948.—Whereas by notification of the Government of India in the Ministry of petroleum & Natural Gas S. O. No. 1554, dated 3-5-1988 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention of acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline;

And whereas the Competent Authority has under sub-section (1) of the Section 6 of the said Act, submitted report to the Government;

And further whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil & Natural Gas Commission free from encumbrances.

## SCHEDULE

## PIPELINE FROM NORHT KADI CTF TO SARKHEJ

State : Gujarat District : Mehsana Taluka : Kalol

Village	Survey No.	Hect-tare	Are	Cent-tiare
Mulsana	109	0	15	00
	110	0	14	40
	111	0	50	20
	114	0	27	00
	113	0	13	80
	115	0	04	60
	152	0	23	60
	151	0	25	40
	150	0	31	90
	154	0	04	50
	155	0	19	20
	156	?	19	40
	180	0	18	20
	181	0	13	00

[No. O-11027/98/88-ONG-D.III]

क.पा. 2949—यतः पेट्रोलियम और खनिज पदार्थों की भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना क.पा. सं. 1575 तारीख 6-5-88 द्वारा केन्द्रीय सरकार ने उस अधिवृत्त से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार का पदप्राप्ति को बिछाने के लिए अर्जित करने का अर्पण प्रथम घोषित कर दिया था,

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है;

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करते के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिर्देश किया है;

अब, अतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के लिए एतद्वारा अर्जित किया जाता है।

और आगे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय तेल और प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगा।

## अनुसूची

नाथकडी सी.टी.एफ. से सरखेज तक पाइपलाइन बिछाने के लिए

राज्य: गुजरात;	जिला: मेहसाणा	तालुका: कडी		
गांव	सर्वे नं.	हेक्टेयर	अर	सेन्टीयर
1	2	3	4	5
मझुदनरा	458	0	19	60
	459	0	22	24

1	2	3	4	5
अदुन्दरा—जारी	454	0	02	16
	453	0	12	73
	320	0	20	00
	452/1+2	0	22	00
	327/1	0	06	20
	320	0	11	20
	326	0	13	20
	324	0	24	60
	321	0	07	90
	320	0	39	50
	257	0	26	20
	258	0	24	80
	240	0	07	40
	261/2	0	09	00
	266/3	0	03	00
	266/2	0	02	46
	266/1	0	02	87
	266/4	0	00	50
	265/1	0	04	34
	265/2	0	07	00
	267/1+2	0	08	00
	219	0	18	40
		0	03	00

[सं. ओ-11027/112/88-ओ एन जी डी-III]

S.O. 2949.—Whereas by notification of the Government of India in the Ministry of Petroleum & Natural Gas S. O. No. 1575, dated 6-5-1988 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline;

And whereas the Competent Authority has under sub-section (1) of the Section 6 of the said Act, submitted report to the Government ;

And further whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification ;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline ;

And further in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil & Natural Gas Commission free from encumbrances.

## SCHEDULE

Pipeline from North Kadi CTF to Sarkhej.

State : Gujarat District : Mehsana Taluka: Kadi

Village	Survey No.	Hec-tare	Are	Cent.
Adundara	458	0	19	60
	459	0	22	24
	454	0	02	16
	453	0	12	73
	320	0	20	00
	452/1+2	0	22	00
	327/1	0	06	20
	320	—	11	20
	326	0	13	20
	324	0	24	60
	321	0	07	90
	320	0	39	50
	257	0	26	20
	258	0	24	80
	240	0	07	40
	261/2	0	09	00
	266/3	0	03	00
	266/2	0	02	46
	266/1	0	02	87
	266/4	0	00	50
	265/1	0	04	34
	265/2	0	07	00
	267/1+2	0	08	00
	219	0	18	40
	Cart track	0	03	00

[No. O-11027/112/88-ONG. D.III]

का भा 2950—यतः पेट्रोलियम और खनिज पदार्थों की भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (i) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का. भा. सं 524 तारीख 29-1-88 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पदार्थों को बिछाने के लिए अर्जित करने का अर्पण आशय घोषित कर दिया था ;

यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (i) के अधीन सरकार को रिपोर्ट दे दी है ;

और चाहे यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनियमन किया है ;

प्रब, यतः उक्त अधिनियम की धारा 6 की उपधारा (i) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पदार्थ लादने बिछाने के लिए एतद्वारा अर्जित किया जाता है ;

और चाहे उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की बजाय तेल और प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगा ।



## अनुसूची

के एन के. फेस II को पाइप लाइन बिछाने के लिए।

राज्य: गुजरात जिला: अहमदाबाद ता: दस्तक्रोई

गांव	ब्लॉक नं.	हेक्टेयर	आरे	सेंटीयर
बाकरोल	307	0	13	55
	308	0	07	25
	413	0	41	30
	230	0	07	40
	237	0	11	35
	239	0	05	15
	236	0	06	10
	242	0	11	20
	255	0	19	64
	253	0	07	25

[सं. ओ-11027/18/88-ओएन जी डी-III]

S.O. 2950.—Whereas by notification of the Government of India in the Ministry of Petroleum & Natural Gas S. O. No. 524, dated 29-1-1988 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And whereas, the Competent Authority has under sub-section (1) of the Section 6 of the said Act, submitted report to the Government;

And further, whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And further, in exercise of power conferred by sub-section (4) of the section, the Central Government direct that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil & Natural Gas Commission free from encumbrances.

## SCHEDULE

## Pipeline for KNK Pipeline Phase. II

State : Gujarat District : Ahmedabad Taluka : Dascroi

Village	Block No.	Hec-tare	Are	Centi-are
Bakrol	307	0	13	55
	308	0	07	25
	413	0	41	30
	230	0	07	40
	237	0	11	35
	239	0	05	15
	236	0	06	10
	242	0	11	20
	255	0	19	64
	253	0	07	25

[No. O-11027/18/88-ONG. D. III]

कां. भा. 2951—यत. केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि असम राज्य में लाकुवा एल-103 130 से सी जी एस-7 तक पेट्रोलियम के परिवहन के लिये पाइप लाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिये।

और यत: यह प्रतीत होता है कि ऐसी ज.इ.नों को बिछाने के प्रयोजन के लिये एतद्पाबद्ध अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसने उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

अतः कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के मालिक पाइप लाइन बिछाने के लिये आक्षेप उठाया, शिवसागर/जोरहाट, असम के कार्यालय में इस अधिसूचना की तारीख के 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिश्चित: यह भी कथन करेगा कि क्या वह यह चाहता है कि उसको सुनवाई व्यक्तिगत हो या किसी विधि व्यवसायी की मार्फत।

## अनुसूची

बाइर लाईन एल 103 से एल 130 से जी. जी. एस. 7 तक

राज्य: असम जिला: शिवसागर तालुका: शिलाकूटि

ग्राम	सर्वे नं.	हेक्टर	आरे	सेंटिग्रेड
1	2	3	4	5
हृदमथुरापुर गांव	276/ख	0	1	34
	275/ख	0	4	15
	273/ख	0	6	42

सं. ओ-11027/17/89-ओएनजी डी-III

S.O. 2951.—Whereas it appears to the Central Government that it is necessary in the public interests that for the transport of Petroleum from Lakuva D/s. No. L-103 to L-130 to GGS-7 in Sibsagar Distt., Assam, Pipeline should be laid by the Oil & Natural Gas Commission.

And whereas, it appears that for the purpose of laying such Pipelines it is necessary to acquire the Right of User in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the section 3 of the Petroleum Pipelines (Acquisition of Right of User in land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein.

Provided that any person interested in the said land may within 21 days from the date of this notification object to the laying of the pipelines under the land to the Competent Authority, viz., Deputy Commissioner, Sibsagar, Assam.

And, every person making such an objection shall also state specifically whether he wishes to be heard in person or by a legal practitioner.

## SCHEDULE

R.O.U. Feeder Line from L-103 To L-130 to GGS-7.

State : Assam Distt : Sibsagar Talul : Silakuti

Village	Survey No.	Hec-tare	Are	Centiare
1	2	3	4	5
Sarumathurapur Gaon	276/Kha	0	1	34
	275/Kha	0	4	15
	273/Kha	0	6	42

[No. O-11027/37/89-ONG. D. III]

का. प्रा. 2952.—यतः पेट्रोलियम और खनिज पदार्थों में भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का. प्रा. सं. 1577 तारीख 6-5-88 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाइपलाइनों को बिछाने के लिए अर्जित करने का अपना प्राथम्य घोषित कर दिया था।

और यतः सक्षम प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और प्रा. सं. यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, यतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रदत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइप लाइन बिछाने के लिए एतद्वारा अर्जित किया जाता है।

और प्रा. सं. उस धारा की उपधारा (4) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निर्देश देती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में निहित होने की वजह से तेल और प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप से, आयोग के प्रकाशन की इस तारीख को निहित होगा।

## अनुसूची

उत्तरकड़ी सी. टी. एक. से सराई तक पाइप लाइन बिछाने के लिए।

राज्य : गुजरात जिला : अहमदाबाद तालुका : सानंद

ग्राम	ब्लॉक नं.	हेक्टेयर	आर	सेंटीयर
भवानपुर	73	0	00	73
	72	0	03	56
	76	0	23	66
	80	0	56	00
	79	0	17	80

[सं ओ-11027/109/88-ओएन जी डी-III]

S.O. 2952.—Whereas by notification of the Government of India, in the Ministry of Petroleum & Natural Gas S.O. No. 1577, dated 6-5-1988 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Cen-

tral Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And whereas, the Competent Authority has under sub-section (1) of the Section 6 of the said Act, submitted report to the Government ;

And further, whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification ;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline ;

And further, in exercise of power conferred by sub-section (4) of the section, the Central Government direct that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil & Natural Gas Commission free from encumbrances.

## SCHEDULE

Pipeline from Nozath Kadi CTF to Sarkhej.

State : Gujarat District : Ahmedabad Taluka : Sanand

Village	Block No.	Hec-tare	Are	Centiare
Bhavanpur	73	0	00	73
	72	0	03	56
	76	0	23	66
	80	0	56	00
	79	0	17	80

[No. O-11027/109/88-ONG. D.-III]

का. प्रा. 2953.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में नौकरी से उतरा तक पेट्रोलियम के परिवहन के लिये पाइपलाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी जगहों को बिछाने के प्रयोजन के लिए एतद्वारा अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पदार्थों में भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना प्राथम्य एतद्वारा घोषित किया है।

अतः कि उक्त भूमि में हितबद्ध कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड़, बडोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्ट यह भी कथन करेगा कि क्या यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवस्था की मार्फत।

## अनुसूची

चोफारी से उंडेश तक पाइप लाइन बिछाने के लिए।

राज्य : गुजरात जिला : ताल्लुक बड़ोदरा

गांव	स.न.	हेक्टर	आर	सेंटीमीटर
खानपुर	113	0	23	45
	74	0	09	30
	70	0	01	45
	73	0	14	72
	76	0	20	85
	77	0	01	54
	92	0	31	45
काटें ट्रैक		0	03	40
	44	0	18	70
	43	0	18	10
	42	0	15	60
	41	0	10	60
काटें ट्रैक		0	03	12
	182	0	06	80
काटें ट्रैक		0	00	96
	189	0	11	05
	183/2	0	01	10
	188	0	09	90
काटें ट्रैक		0	01	60
	191	0	19	37
	192	0	07	60
	194	0	12	00
	193	0	00	04

[सं. प्रो.-11027/90/89-ओ एन जी. सी. III]

S.O. 2953.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from Shokari to Undera in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And, whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto ;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein :

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara, (390009).

And every person making such an objection shall also state specifically whether he wishes to be here in person or by legal practitioner.

## SCHEDULE

Pipeline from Chokari To Undera

State : Gujarat District &amp; Taluka : Vadodara

Village	Survey No.	Hec-tare	Are	Cent-tiare
Khanpur	113	0	23	45
	74	0	09	30
	70	0	01	95
	73	0	14	72
	76	0	20	85
	77	0	01	54
	92	0	31	45
	Cart track	0	03	40
	44	0	18	70
	43	0	18	10
	42	0	15	60
	41	0	10	60
	Cart track	0	03	12
	182	0	06	80
	Cart track	0	00	96
	189	0	11	05
	183/2	0	01	10
	188	0	09	90
	Cart track	0	01	60
	191	0	19	37
	192	0	07	60
	194	0	12	00
	193	0	00	04

[No. O-11027/90/89-ONG.D.III]

का. प्रो. 2954.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में इन्फ्यू. एम. एम. ए. से जी. जी. एस. एन. प्रो. बी. तक पेट्रोलियम के परिवहन के लिये पाइप-लाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसा लाइनों को बिछाने के प्रयोजन के लिए एतदुपाय अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः इस पेट्रोलियम और खनिज पाइप लाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितवन् कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी तैय्य तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुरा, रोड, बड़ोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिर्दिष्टतः यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

## अनुसूची

इन्फ्यू. एम. एम. ए. से जी. जी. एस. एन. प्रो. बी-1 तक पाइप लाइन बिछाने के लिए।

राज्य : गुजरात जिला व तालुका : महेशवास

गांव	सर्वे नं.	हेक्टर	आर	सें. टीयर
हेरडावा	35/पी	0	13	20
हनुमन्त				

[सं. प्रो.-11027/91/89-ओ एन जी. सी. III]

S.O. 2954.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from WSSA to GGS-SOB-1 in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And, whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara, (390009).

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

#### SCHEDULE

Pipeline from WSSA to GGS SOB-1.

State : Gujarat

District & Taluka : Mehsana

Village	Survey No.	Hec-tare	Acre	Cent-tiare
Henda-Hanmant	30/P	0	13	20

[No. O-11027/91/89-ONG. D.III]

का.प्रा. 2955—यतः पेट्रोलियम और खनिज पाइपलाइन भूमि में उपयोग के अधिकार का अर्जन अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) के अधीन भारत सरकार के पेट्रोलियम और प्राकृतिक गैस मंत्रालय की अधिसूचना का.प्रा.सं. 1572 तारीख 6-5-83 द्वारा केन्द्रीय सरकार ने उस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग के अधिकार को पाइपलाइनों को बिछाने के लिए अर्जित करने का अपना आग्रह घोषित कर दिया था।

और यतः लक्ष्य प्राधिकारी ने उक्त अधिनियम की धारा 6 की उपधारा (1) के अधीन सरकार को रिपोर्ट दे दी है।

और आगे, यतः केन्द्रीय सरकार ने उक्त रिपोर्ट पर विचार करने के पश्चात् इस अधिसूचना से संलग्न अनुसूची में विनिर्दिष्ट भूमियों में उपयोग का अधिकार अर्जित करने का विनिश्चय किया है।

अब, यतः उक्त अधिनियम की धारा 6 की उपधारा (1) द्वारा प्रवृत्त शक्ति का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा घोषित करती है कि इस अधिसूचना में संलग्न अनुसूची में विनिर्दिष्ट उक्त भूमियों में उपयोग का अधिकार पाइपलाइन बिछाने के लिए एतद्वारा अर्जित किया जाता है।

और आगे उस धारा की उपधारा (4) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार निवेदन करती है कि उक्त भूमियों में उपयोग का अधिकार केन्द्रीय सरकार में विहित होने की बजाय तब और प्राकृतिक गैस आयोग में, सभी बाधाओं से मुक्त रूप में, घोषणा के प्रकाशन की इस तारीख को निहित होगा।

अनुसूची				
कलोल से मंत्रालय से कोरवी फेस II की पाइप लाइन बिछाने के लिए				
राज्य : गुजरात	जिला : मेहसा	तालुका : अलिया		
गांव	सर्वे नं.	हेक्टेयर	अ.प्र.	सेंटीयर
1	2	3	4	5
करमसत	932/2	0	05	75
	936/2	0	16	40
	936/1	0	03	44
	935/1/2	0	11	20
	935/1/1	0	06	80
	933/3	0	04	01
	933/2	0	26	40
	काटे ट्रेक	0	02	00
	973	0	25	00
	974/3	0	06	80
	1029	0	25	20
	1030/2	0	11	20
	1047/1	0	19	00
	काटे ट्रेक	0	01	20
	1048/2	0	00	60
	1048/1	0	21	40
	1049	0	11	50
	1051	0	02	72
	1050/3	0	04	00
	1050/2	0	10	00
	1050/1	0	00	83
	1211/4	0	13	64
	1211/3	0	08	00
	1211/2	9	18	52
	1211/4	0	00	24
	1212/3	0	05	50
	1212/2	0	06	06
	1010	0	00	70
	1208/2	0	21	87
	1207/1	0	01	85
	1206/3	0	09	20
	1206/2	0	07	20
	1206/1	0	00	32
	1205	0	15	50
	काटे ट्रेक	0	01	40
	1216	0	04	60
	काटे ट्रेक	0	01	90
	1317/1+3	0	03	16
	4 से 30			
	1322/2	0	11	90
	1322/1	0	03	28
	1321	0	00	76
	1323	0	09	80
	1324/1/II	0	08	03
	1325/1	0	02	25
	1329	0	07	00
	1328/2	0	06	40
	1328/1	0	09	20
	1329	0	00	46
	1334	0	02	52
	1333/2/1	0	04	00
	1335/2	0	05	53

1	2	3	4	5
	1335/1	0	04	60
	1349/1	0	00	16
	1322/3	0	13	55
	1340	0	10	83
	1338/1	0	00	95
	1342	0	09	10
	1344	0	11	70
	1379/2	0	04	40
	1378/2	0	07	50
	1378/1	0	07	50
	1377/1	0	01	15
	1377/2	0	03	60
	1377/2	0	04	00
	1377/4	0	03	65
	1376/1	0	09	87
	1373	0	11	70
	1394/1/1	0	23	80
	2+3+4+5			
	1395/1	0	08	60
	1395/2	0	01	00
	काटे ट्रैक	0	00	80
	1537/2	0	03	40
	1537/1	0	10	30
	काटे ट्रैक	0	01	30
	1571/2	0	16	60
	1572	0	12	20
	1585/1	0	18	10
	1582/2	0	00	00
	1583/1	0	04	40
	1655/2	0	13	70
	1571/1	0	17	98
	1663/3	0	01	26
	1667/2ए + 2बी	0	00	09
	1667/5ए + 5बी	0	00	58
	1668/2	0	09	90
	1669	0	04	95
	1728/1	}	33	00
	1728/2			
	1728/3			
	1728/4+5			
	1725	0	03	17
	1727	0	18	00
	1767	0	49	69
	1768	0	01	92
	1771	0	05	40
	1772	0	09	40
	1782/2	0	19	20
	1782/1	0	18	65
	काटे ट्रैक	0	01	30
	1790	0	08	55
	1791/1+2	0	02	61
	1792	0	09	20

S.O. 2955.—Whereas by notification of the Government of India in the Ministry of Petroleum and Natural Gas S.O. No. 1572 dated 6-5-88 under sub-section (1) of Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in Land) Act, 1962 (50 of 1962), the Central Government declared its intention to acquire the right of user in lands specified in the schedule appended to that notification for the purpose of laying pipeline.

And, whereas, the Competent Authority has under sub-section (1) of the Section 6 of the said Act, submitted report to the Government;

And, further, whereas the Central Government has, after considering the said report decided to acquire the right of user in the lands in the schedule appended to this notification;

Now, therefore, in exercise of the power conferred by sub-section (1) of the Section 6 of the said Act, the Central Government hereby declares that the right of user in the said lands specified in the schedule appended to this notification hereby acquired for laying the pipeline;

And, further, in exercise of power conferred by sub-section (4) of the section, the Central Government directs that the right of user in the said lands shall instead of vesting in Central Government vests on this date of the publication of this declaration in the Oil and Natural Gas Commission free from encumbrances.

#### SCHEDULE

##### Pipeline for KNK Phase II.

State : Gujarat District : Kheda Taluka : Anand

Village	Survey No.	Hec-tare	Are	Cent-tiare
1	2	3	4	5
Karamasad	932/2	0	05	75
	936/2	0	16	40
	936/1	0	03	44
	935/1/2	0	11	20
	935/1/1	0	06	80
	933/3	0	04	01
	933/2	0	26	40
	Cart track	0	02	00
	973	0	25	00
	974/3	0	06	80
	1029	0	25	20
	1030/2	0	11	20
	1047/1	0	19	00
	Cart track	0	01	20
	1048/2	0	00	60
	1048/1	0	21	40
	1049	0	11	50
	1051	0	02	72
	1050/3	0	04	00
	1050/2	0	10	00
	1050/1	0	06	83
	1211/4	0	13	64
	1211/3	0	08	00
	1211/2	0	18	52
	1211/4	0	00	24
	1212/33	0	05	50
	1212/2	0	06	06
	1010	0	00	70
	1208/2	0	21	87
	1207/1	0	01	85
	1206/3	0	09	20
	1206/2	0	07	20

[सं. ओ-11027/86/88-ओ एन जी सी-III]

1	2	3	4
1206/1	0	00	32
1205	0	15	50
Cart track	0	01	40
1216	0	04	60
Cart track	0	01	80
1317/1+3	0	03	16
4 to 30			
1322/2	0	11	90
1322/1	0	03	28
1321	0	00	76
1323	0	09	80
1324/1/A	0	08	03
1325/1	0	02	25
1320	0	07	00
1328/2	0	06	40
1328/1	0	08	20
1329	0	00	46
1334	0	02	52
1333/2/1	0	04	00
1335/2	0	05	53
1335/1	0	04	00
1349/1	0	00	16
1322/3	0	13	00
1340	0	10	83
1338/1	0	00	95
1342	0	09	10
1344	0	11	70
1379/2	0	04	40
1378/2	0	07	50
1378/1	0	07	50
1377/1	0	01	15
1377/2	0	03	60
1377/3	0	04	00
1377/4	0	03	65
1376/1	0	09	87
1373	0	11	70
1394/1/1	0	23	80
2+3+4+5			
1395/1	0	08	60
1395/2	0	01	00
Cart track	0	00	80
1537/2	0	03	40
1537/1	0	10	30
Cart track	0	01	30
1571/2	0	16	60
1572	0	12	20
1535/1	0	18	10
1582/1	0	00	50
1583/1	0	04	40
1655/2	0	13	
1571/1	17	90	70
1663/3	0	01	26
1667/2A+2B	0	00	09
1667/5A+5B	0	00	56
1668/2	0	07	90
1669	0	04	95
1728/1	}		
1728/2			
1728/3		0	23
1728/4+5			
1725		0	03
1727		0	18
1767		0	49
1768		0	01

1	2	3	4	5	6
1771			0	05	40
1772			0	09	40
1782/2			0	19	20
1782/1			0	17	65
Cart track			0	01	30
1790			0	08	25
1791/1+2			0	02	61
1792			0	09	20

[No. O-11027/86/88-ONG.D.III]

का. प्रा. 2956.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में डीपीएस. गंधार से जीएनएफसी तक पेट्रोलियम के परिवहन के लिये पाइपलाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतद्विषयक अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के मालिक पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी तेल तथा प्राकृतिक गैस आयोग, निर्माण और वेल्डिंग प्रभाग मकरपुरा रोड, बड़ोदा-9 को इस अधिसूचना की तारीख से 11 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिश्चितः यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विनिश्चित व्यवसायी की मार्फत।

## अनुसूची

इ पी एस गंधार से जी एन एफ सी तक पाइप लाइन बिछाने के लिए

राज्य : गुजरात जिला : अरुण तालुका : आंधव

प्लॉट	प्लॉट नं.	हे.	घर.	सेन्टी- घर
1	2	3	4	5
रोड-टकारिया	897		0	11
	888		0	58
	901		0	00
	885		0	52
	884		0	10
	878		0	06
	877		0	06
	876		0	32
काट ट्रेक			0	06
915			0	25
काट ट्रेक			0	06

1	2	3	4	5	1	2	3	4	5
	891	0	03	52		885	0	52	30
	990	0	15	40		884	0	10	40
	919	0	27	10		878	0	06	10
	984	0	18	00		877	0	06	80
	983	0	40	80		876	0	32	90
	1002	0	10	08		Cart track	0	06	40
	1004	0	05	10		915	0	25	30
	कार्ड ट्रैक	0	09	20		Cart track	0	06	80
	1003	0	14	20		991	0	03	52
	1103	0	19	40		990	0	15	40
	1102	0	10	10		919	0	27	10
	1101	0	11	70		984	0	18	00
	1100	0	09	80		985	0	40	80
	1099	0	27	50		1002	0	10	08
	1098	0	36	20		1004	0	05	10
	1095	0	24	28		Cart track	0	09	20
	1169	0	26	40		1003	0	14	20
	1180	0	10	70		1103	0	19	40
	1170	0	04	87		1102	0	10	10
	1179	0	30	60		1101	0	11	70
	1184	0	49	00		1100	0	09	80
	1183	0	60	00		1099	0	27	50
						1098	0	36	20
						1095	0	24	28
						1169	0	26	40
						1180	0	10	70
						1170	0	04	87
						1179	0	30	60
						1184	0	49	00
						1183	0	60	00

[सं.ओ.-11027/133/89-ओ.एल.जी.सी.-III]

in respect to the Central Government

[सं.ओ.-11027/133/89-ओ.एन.जी.सी.-III]

S.O. 2956.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from EPS Gandhar to GNFC in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And, whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein;

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara, (390009).

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

## SCHEDULE

## PIPELINE FROM EPS GANDHAR TO GNFC.

State : Gujarat District : Bharuch Taluka : Amod

Village	Block No.	Hectare	Are	Centi-are
1	2	3	4	5
Roza-Tankarla	897	0	11	42
	888	0	58	18
	901	0	00	16

[No. O-11027/133/89 ONG D. III]

का.आ. 2957.—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में इ.पी. एस. गंधार से जी. एन. एफ. सी. तक पेट्रोलियम के परिवहन के लिए पाइपलाइन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतदुपायक अधिनियम में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम, 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

अतः कि उक्त भूमि में हितबद्ध कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए प्राप्ति प्राप्त अधिकारी तेल तथा प्राकृतिक गैस आयोग, निर्माण और देखभाल प्रभाग, मकरपुर, रोड, वडोदा-9. को इस अधिनियम की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आशय करने वाला हर व्यक्ति विनिश्चितः यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की भांति।

## अनुसूची

## SCHEDULE

इ.पी.एस. गंधार से जी.एन.एफ. सी. तक पाइप लाइन बिछाने के लिए।

राज्य : गुजरात जिला : तालुका : भरुच

गांव	ब्लॉक नं.	हे.	घर.	सेन्टी- यर
1	2	3	4	5
महुधका	385	0	24	00
	384	0	25	00
	376	0	06	12
	383	0	02	80
	381	0	03	46
	380	0	04	93
	378	0	03	70
	379	5	04	35
	377	0	02	56
फार्म ट्रैक		0	02	16
	208	0	06	90
	207	0	06	76
	204	0	16	80
	205	0	08	68
	213	0	38	20
	215	0	02	88

[सं.ओ.-11027/134/89-ओ.एन.जी.सी.-III]

## PIPELINE FROM EPS GANDHAR TO GNFC

State : Gujarat District & Taluka : Bharuch

Village	Block No.	Hectare	Are	Centi- are
1	2	3	4	5
Mahudhala	385	0	24	00
	384	0	25	00
	376	0	06	12
	383	0	02	80
	381	0	03	46
	380	0	04	93
	378	0	03	70
	379	0	04	35
	377	0	02	56
	Carl track	0	02	16
	208	0	06	90
	207	0	06	76
	204	0	16	80
	205	0	08	68
	213	0	36	20
	215	0	02	88

[No. O-11027/134/89-ONG. D.III]

S.O. 2957.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from EPS Gandhar to GNFC in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And, whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara, (390 009).

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

का.आ.2958—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में इ.प.एस. गंधार से जी. एन. एफ. सी. तक पेट्रोलियम के परिवहन के लिये पाइपलाइन तेल तथा प्राकृतिक गैस प्रयोग द्वारा बिछाई जानी चाहिए।

और यतः प्रतीत होता है कि ऐसी लाइनों को बिछाने के प्रयोजन के लिए एतदुपाय अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन) अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

बशर्ते कि उक्त भूमि में हितबद्ध कोई व्यक्ति, उस भूमि के नीचे पाइप लाइन बिछाने के लिए आक्षेप सक्षम प्राधिकारी तेल तथा प्राकृतिक गैस प्रयोग, निर्माण और देखभाल प्रभाग, मकरपुरा रोड, वडोदा-9, को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आक्षेप करने वाला हर व्यक्ति विनिश्चित यह भी कथन करेगा कि क्या वह यह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विश्विष्ट व्यक्तियों की मार्फत—



## अनुसूची

इ.एस.पी. गंधार से जी. एन. एफ. सी. तक पाइप लाइन बिछाने के लिए।

राज्य :—गुजरात	जिला तथा तालुका :—	अक्ष	अक्ष	सेन्टी- मीटर
गांव	ब्लॉक नं.	हे.	ग्राम.	सेन्टी- मीटर
1	2	3	4	5
उमराज	447	0	18	30
	448 पार्ट	0	24	40
	449	0	09	30
	462	0	12	70
	463	0	00	72
	461 पार्ट	0	66	35
	476	0	30	50
	482 1/2	0	15	10
	479	0	12	20
	480 पार्ट	0	29	90

[सं.ओ.-11027/135/89-ओ.एन.जी.सी.-III]

S.O. 2958.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from EPS Gandhar to GNFC in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And, whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction and Maintenance Division, Makarpura Road, Vadodara, (390009).

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

## SCHEDULE

## PIPELINING FROM EPS GANDHAR TO GNFC.

State : : Gujarat

District &amp; Taluka : Bharuch

Village	Block No.	H. ctare	Are	Centi- are
1	2	3	4	5
Umraj	447	0	18	30
	448 Part	0	24	40
	449	0	09	30
	462	0	12	70
	463	0	00	72
	461 Part	0	66	35
	476	0	30	50
	482 1/2	0	12	10
	479	0	12	20
	480 Part	0	29	90

[No. O-11027/135/89-ONG. D. II)]

का.आ.2959—यतः केन्द्रीय सरकार को यह प्रतीत होता है कि लोकहित में यह आवश्यक है कि गुजरात राज्य में ईपीएम गंधार से जीएनएफसी तक पेट्रोलियम के परिवहन के लिये पाइपलाईन तेल तथा प्राकृतिक गैस आयोग द्वारा बिछाई जानी चाहिए।

और यतः यह प्रतीत होता है कि ऐसी लाईनों को बिछाने के प्रयोजन के लिये एतदुपाय अनुसूची में वर्णित भूमि में उपयोग का अधिकार अर्जित करना आवश्यक है।

अतः अब पेट्रोलियम और खनिज पाइपलाइन (भूमि में उपयोग के अधिकार का अर्जन अधिनियम 1962 (1962 का 50) की धारा 3 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार ने उसमें उपयोग का अधिकार अर्जित करने का अपना आशय एतद्वारा घोषित किया है।

वर्णित कि उक्त भूमि में हितवश कोई व्यक्ति उस भूमि के नीचे पाइप लाइन बिछाने के लिए आशेष सक्षम प्राधिकारी तेल तथा प्राकृतिक गैस आयोग निर्माण और देखभाल प्रभाग मकरपुरा रोड बड़ोदा-9 को इस अधिसूचना की तारीख से 21 दिनों के भीतर कर सकेगा।

और ऐसा आशेष करनेवाला हर व्यक्ति विनिर्दिष्ट: यह भी कथन करेगा कि क्या यह वह चाहता है कि उसकी सुनवाई व्यक्तिगत रूप से हो या किसी विधि व्यवसायी की मार्फत।

## अनुसूची

ईपीएस गंधार से जीएनएफसी तक पाइप लाइन बिछाने के लिए

राज्य : गुजरात जिला : भरुच तालुका : बागरा

गांव	ब्लॉक नं.	हे.	ग्राम.	सेन्टी
1	2	3	4	5
बागरा	683	0	04	95
	729	0	13	08
	728	0	07	24
	730	0	07	80
	731	0	05	85
	737	0	02	10
	728/बी	0	01	40
	738	0	12	40
	720	0	21	20
	719	0	11	00
	718	0	13	00
	655/ए	0	18	50
	कार्ट ट्रैक	0	06	25
	654/बी	0	13	20
	कार्ट ट्रैक	0	04	40
	754	0	26	00
	761	0	16	40
	767	0	15	98
	792	0	07	05
	768	0	06	60
	787	0	43	10
	788	0	06	50
	786	0	08	50
	कार्ट ट्रैक	0	07	50
	774	0	05	28
	785	0	06	80
	778	0	11	10

1	2	3	4	5
	777	0	10	00
	779	0	00	10
	776	0	17	00
	कार्ट ट्रैक	0	07	80
	589	0	24	10
	590	0	65	00
	585	0	21	00
	591	0	09	80
	592	5	45	78
	572	0	01	95
	486	0	07	20
	487	5	13	60
	488	0	09	40
	489	0	09	01
	कार्ट ट्रैक	0	07	10
	483	0	03	24
	481	0	01	20
	482	0	21	85
	473	0	09	40
	472	0	03	45
	कार्ट ट्रैक	0	24	05
	309	0	12	10
	310	0	04	84
	313	0	16	60
	314	0	15	80
	388	0	03	00
	387	0	26	10
	386	0	05	50
	391	0	22	00
	342	0	06	52
	343	0	11	10
	380	0	19	80
	345	0	05	30
	379	0	26	80
	377	0	18	48
	376	0	00	52

[सं. प्रो.-11027/136/89-प्रो एमजी बी.-III]

फे. विवेकानन्द हेन्स अधिकारी

S.O. 2959.—Whereas it appears to the Central Government that it is necessary in the public interest that for the transport of petroleum from EPS Gandhar to GNFC in Gujarat State pipeline should be laid by the Oil and Natural Gas Commission.

And, whereas, it appears that for the purpose of laying such pipeline, it is necessary to acquire that right of user in the land described in the schedule annexed hereto;

Now, therefore, in exercise of the powers conferred by sub-section (1) of the Section 3 of the Petroleum and Minerals Pipelines (Acquisition of Right of User in the Land) Act, 1962 (50 of 1962), the Central Government hereby declares its intention to acquire the right of user therein:

Provided that any person interested in the said land may, within 21 days from the date of this notification, object to the laying of the pipeline under the land to the Competent Authority, Oil and Natural Gas Commission, Construction

and Maintenance Division, Makarpura Road, Vadodra, (390009).

And every person making such an objection shall also state specifically whether he wishes to be heard in person or by legal practitioner.

## SCHEDULE

## PIPELINE FROM EPS GANDHAR TO GNFC.

State : Gujarat District : Bharuch Taluka : Vagra

1	2	3	4	5
Vagra	683	0	04	95
	729	0	13	08
	728	0	07	24
	730	0	07	80
	731	0	05	85
	737	0	02	10
	728/B	0	01	40
	738	0	12	40
	720	0	21	20
	719	0	11	00
	718	0	13	00
	655/A	0	18	50
	Cart track	0	06	25
	654/B	0	13	20
	Cart track	0	04	40
	754	0	26	00
	761	0	16	40
	767	0	15	98
	792	0	07	05
	768	0	06	60
	787	0	43	10
	788	0	06	50
	786	0	08	50
	Cart track	0	07	50
	774	0	05	28
	785	0	06	80
	778	0	11	10
	777	0	10	00
	779	0	00	10
	776	0	17	00
	Cart track	0	07	80
	589	0	24	10
	590	0	65	00
	585	0	21	00
	591	0	09	80
	592	0	45	78
	572	0	01	95
	486	0	07	20
	487	0	13	60
	488	0	09	40
	489	0	09	01
	Cart track	0	07	10
	483	0	03	24
	481	0	01	20
	482	0	21	85
	473	0	09	40
	472	0	03	45
	Cart track	0	24	05
	309	0	12	10
	310	0	04	84
	313	0	16	60
	314	0	15	80
	388	0	03	00
	387	0	26	10

1	2	3	4	5	प्राप्त कर लिया है, को अधिसूचित करती है --
	386	0	05	50	(1) भारतीय खाद्य निगम, जिला कार्यालय, मनमाड
	391	0	22	00	(2) भारतीय खाद्य निगम, जिला कार्यालय, बम्बई
	392	0	06	52	(3) भारतीय खाद्य निगम, जिला कार्यालय, पुणे
	393	0	11	10	
	380	0	19	80	
	395	0	00	30	[संख्या ई-11017/10/89-हिन्दी]
	379	0	26	80	उ. र. कुलेकर, निदेशक (संती)
	377	0	18	48	
	376	0	00	52	

## MINISTRY OF FOOD &amp; CIVIL SUPPLIES

(Department of Food)

New Delhi, the 10th August, 1989

[No. O-11027/136/89-ONG. D. III]

K. VIVEKANAND, Desk Officer

## खाद्य एवं नागरिक पूर्ति मंत्रालय

(खाद्य विभाग)

नई दिल्ली, 10 अगस्त, 1989

का. धा. 2960.—केन्द्रीय सरकार, राजभाषा (संघ के शासकीय प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में, खाद्य और नागरिक पूर्ति मंत्रालय, खाद्य विभाग को अधीन निम्नलिखित कार्यालयों, जिसके कर्मचारीवृत्त ने हिन्दी का कार्यसाधक ज्ञान

S.O. 2960.—In pursuance of sub rule 4 of rule 10 of the Official Language (Use for official purposes of the Union) Rules, 1976, the Central Government thereby notifies the following offices under the administrative control of the Ministry of Food & Civil Supplies (Department of Food), the staff whereof have acquired the working knowledge of Hindi :—

1. Food Corporation of India, Distt. Office, Manmad.
2. Food Corporation of India, Distt. Office, Bombay.
3. Food Corporation of India, Distt. Office Pune

[No. E-11017/10/89-Hindi]

U. R. KURLEKAR, Director (Sugar).

(नागरिक पूर्ति विभाग)


भारतीय मानक ब्यूरो

नई दिल्ली, 6 नवम्बर, 1989

का. धा. 2961.—भारतीय मानक ब्यूरो नियम, 1987 के नियम 9 के उपनियम (1) के अनुसरण में भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि जिस मानक मुहर का डिजाइन, उसके शाब्दिक विवरण और सम्बद्ध भारतीय मानक की संख्या वर्ष सहित नीचे अनुसूची में दी गयी है, वह निर्धारित कर दिया गया है।

भारतीय मानक ब्यूरो अधिनियम, 1986 और उसके अधीन बन नियमों तथा विनियमों के प्रयोजन के लिए यह मानक मुहर 1989-05-01 से लागू होगी:

## अनुसूची

क्र.सं.	मानक मुहर का डिजाइन	उत्पाद/उत्पाद श्रेणी	सम्बद्ध भारतीय मानक की संख्या और वर्ष	मानक मुहर के डिजाइन का शाब्दिक विवरण
(1)	(2)	(3)	(4)	(5)
1.		जलकल कार्यों के लिए उसका लोहे के पेंचदार रोक वाल्व तथा रोक और रोधी वाल्व	IS: 9338-1984	संस्थ (2) में दिखाई गई निश्चित शैली और परस्पर सम्बद्ध अनुपात में बनाया गया "ISI" अधार्युक्त भारतीय मानक ब्यूरो का मोनोग्राम जिसमें भारतीय मानक की संख्या डिजाइन में दिखाए अनुसार मोनोग्राम के ऊपर अंकित हो।

[संख्या सीएमडी/13: 9]

(Department of Civil Supplies)


BUREAU OF INDIAN STANDARDS

New Delhi, the 6th November, 1989

S. O. 2961.—In pursuance of Sub-rule(1) of the rule 9 of Bureau of Indian Standards Rules, 1987 the Bureau of Indian Standards, hereby, notifies that the Standard Mark, design of which together with the description of the design and the number and year of the relevant Indian Standard is are given in the Schedule hereto annexed, has/have been specified.

This Standard Mark for the purpose of the Bureau of Indian Standards Act, 1986 and the Rules and Regulations framed thereunder, shall come into force with effect from 1989-05-01:

## SCHEDULE

Sl. No.	Design of the Standard Mark	Product/Class of Product	No. and year of the Relevant Indian Standard	Description of the design of the Standard Mark
(1)	(2)	(3)	(4)	(5)
1.		Cast iron screw-down stop valves and stop and check valves for water works purposes	IS: 9338—1984	The monogram of the Bureau of Indian Standards, consisting of letters 'ISI' drawn in the exact style and relative proportions as indicated in Col. (2); the number of the Indian Standard being superscribed on the top side of the monogram as indicated in the design.

(No. CMD/13 : 9)

का.भा. 2962.—भारतीय मानक ब्यूरो (प्रमाणन) विनियम, 1988 के विनियम 6 के उपविनियम (3) के अनुसरण में भारतीय मानक ब्यूरो द्वारा अधिसूचित किया जाता है कि उल्लेखित लोहे के पंच वाले रोक वाल्व जिसका विवरण नीचे अनुसूची में दिया गया है, की प्रति इकाई मुहर लगाने की नीति निर्धारित कर दी गई है और यह फीस 1989-05-01 से लागू होगी:

## अनुसूची

क्र.सं.	उत्पाद/उत्पाद की श्रेणी	सम्बद्ध भारतीय मानक की संख्या और वर्ष	इकाई	प्रति इकाई मुहर लगाने की फीस
(1)	(2)	(3)	(4)	(5)
1.	जल कल कार्यों के लिए उल्लेखित लोहे के पंच वाले रोक वाल्व तथा रोक और रोक वाल्व	IS: 9338—1984	एक वाल्व	रु. 1.00

[संज्ञी एम की 13:10]

S.O. 2962.—In pursuance of sub-regulation (3) of regulation 6 of the Bureau of Indian Standards (Certification) Regulations, 1988, the Bureau of Indian Standards, hereby, notifies that the marking fee per unit for cast iron screw down stop valves details of which are given in the Schedule hereto annexed, has been determined and the fee(s) shall come into force with effect from 1989-05-01;

## SCHEDULE

Sl. No.	Product/Class of Product	No. and year of Relevant Indian Standard	Unit	Marking fee per unit
(1)	(2)	(3)	(4)	(5)
1.	Cast iron screw down stop valves and stop and check valves for water works purposes	IS : 9338—1984	One Valve	Re 1.00

[No. CMD/13 : 10]

का.भा. 2963.—भारत के राजपत्र, भाग 2, खंड 3, उपखंड (2), दिनांक 1984-08-11 में प्रकाशित खाद्य एवं नागरिक पूर्ति मंत्रालय, नागरिक पूर्ति विभाग (भारतीय मानक ब्यूरो) की अधिसूचना संख्या का.भा. 2576 दिनांक 1984-07-11 का प्रांशिक संशोधन करते हुए भारतीय मानक ब्यूरो एतद्द्वारा अधिसूचित करता है कि अन्तर्देशी इंजनों के लिए अन्तर्गत तथा निर्यातक वाल्व की प्रति इकाई मुहरांकन फीस, जिसका विवरण नीचे अनुसूची में दिया गया है, संशोधित कर दी गई है। मुहरांकन फीस की संशोधित दर 1989-07-01 से लागू होगी:

## अनुसूची

क्र.सं.	उत्पाद/उत्पाद की श्रेणी	सम्बद्ध भारतीय मानक की संख्या और वर्ष	इकाई	प्रति इकाई मुहरांकन फीस
(1)	(2)	(3)	(4)	(5)
1.	अन्तर्देशी इंजनों के लिए अन्तर्गत तथा निर्यातक वाल्व	IS: 810—1974	1000 नग	रु. 7.50

[सी एम की 13:10]

S. O. 2963.—In partial modification of the Ministry of Food and Civil Supplies (Deptt. of Civil Supplies) (Indian Standards Institution) notification number S.O. 2576 dated 1984-07-11 published in the Gazette of India, Part-II, Section-3, Sub-Section (ii) dated 1984-03-11 the Bureau of Indian Standards, hereby notifies that the marking fee per unit for inlet and exhaust valves for internal combustion engines details of which are given in the Schedule hereto annexed, has been revised. The revised rate of marking fee shall come into force with effect from 1989-07-01:

## SCHEDULE

Sl. No.	Product/Class of Product	No. & Year of the Relevant Indian Standard	Unit	Marking Fee per unit
(1)	(2)	(3)	(4)	(5)
1.	Inlet and exhaust valves for internal combustion engines	IS : 810—1974	1000 Pieces	Rs. 7.50

[No. CMD/13 : 10]

का.भा. 2964.—भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii), दिनांक 1984-06-23 में प्रकाशित खाद्य एवं नागरिक पूर्ति मंत्रालय, नागरिक पूर्ति विभाग (भारतीय मानक ब्यूरो) की अधिसूचना संख्या का.भा. 1998 दिनांक 1984-05-30 का आंशिक संशोधन करते हुए भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि बिटुमेन ड्रम की प्रति इकाई मुहरांकन फीस, जिसका विवरण नीचे अनुसूची में दिया गया है, संशोधित कर दी गई है। मुहरांकन फीस की संशोधित दर 1989-07-01 से लागू होगी :

## अनुसूची

क्र. सं.	उत्पाद/उत्पाद श्रेणी	सम्बद्ध भारतीय मानक की संख्या और वर्ष	इकाई	प्रति इकाई मुहरांकन फीस
(1)	(2)	(3)	(4)	(5)
1.	बिटुमेन ड्रम	IS : 3575—1977	1000 ड्रम	(i) रु. 50.00 प्रति इकाई पहली 3000 इकाइयों के लिए, और (ii) रु. 20.00 प्रति इकाई 3001वीं और अधिक इकाइयों के लिए।

[संख्या: सीएमडी/13:10]

S. O. 2954.—In partial modification of the Ministry of Food and Civil Supplies (Deptt. of Civil Supplies) (Indian Standards Institution) notification number S.O. 1998 dated 1984-05-30 published in the Gazette of India, Part-II, Section-3, Sub-Section (ii) dated 1984-06-23 the Bureau of Indian Standards, hereby, notifies that the marking fee per unit for bitumen drums details of which are given in the Schedule here to annexed, has been revised. The revised rate of marking fee shall come into force with effect from 1989-07-01;

## SCHEDULE

Sl. No.	Product/Class of Product	No. & year of the Relevant Indian Standard	Unit	Marking Fee per Unit
(1)	(2)	(3)	(4)	(5)
1.	Bitumen drums	IS: 3575—1977	1000 drums	(i) Rs. 50.00 per unit for the first 3000 units. and (ii) Rs. 20.00 per unit for the 3001st unit and above.

[No. CMD/13 : 10]

का.भा. 2965.—भारत के राजपत्र, भाग 2, खंड 3, उपखंड (ii), दिनांक 1983-05-14 में प्रकाशित खाद्य एवं नागरिक पूर्ति मंत्रालय, नागरिक पूर्ति विभाग (भारतीय मानक ब्यूरो) की अधिसूचना संख्या का. भा. 2108 दिनांक 1983-04-24 का आंशिक संशोधन करते हुए भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि पाइरोलोन रहित घासबित्त जल के लिए जल भण्डार की प्रति इकाई मुहरांकन फीस, जिसका विवरण नीचे अनुसूची में दिया गया है, संशोधित कर दी गई है। मुहरांकन फीस की संशोधित दर 1989-05-01 से लागू होगी :

## अनुसूची

क्र. सं.	उत्पाद/उत्पाद श्रेणी	सम्बद्ध भारतीय मानक की संख्या और वर्ष	इकाई	प्रति इकाई मुहरांकन फीस
(1)	(2)	(3)	(4)	(5)
1.	पाइरोजन रहित मासवित जल के लिए जल भण्डार	IS : 3830-1979	एक टन	रु. 60.00

[संख्या सी एम डी/13 : 10]

S.O. 2955.—In partial modification of the then Ministry of Civil Supplies (Indian Standards Institution) notification number S.O. 2103 dated 1983-04-24 published in the Gazette of India, Part-II, Section-3, Sub Section (ii) dated 1983-05-14 the Bureau of Indian Standards, hereby, notifies that the marking fee per unit for water stills for pyrogen free distilled water details of which are given in the Schedule here to annexed has been revised. The revised rate of marking fee shall come into force with effect from 1989-05-01;

## SCHEDULE

Sl. No.	Product/Class of Product	No. & Year of the Relevant Indian Standard	Unit	Marking Fee per Unit
1	2	3	4	5
1.	Water stills for pyrogen free distilled water	IS: 3830-1979	One Tonne	Rs. 60.00

[No. CMD/13 : 10]

क्र. मा. 2966—भारत के राजपत्र, भाग 2, खंड 3, उपखंड (2), दिनांक 1984-07-88 में प्रकाशित खाद्य एवं नागरिक पूर्ति मंत्रालय, नागरिक पूर्ति विभाग (भारतीय मानक ब्यूरो) की अधिसूचना संख्या क्र.मा. 2405 दिनांक 1984-06-29 का आंशिक संशोधन करते हुए भारतीय मानक ब्यूरो एतद्वारा अधिसूचित करता है कि बेसी स्पिरिट (भासवित) की प्रति इकाई मुहरांकन फीस, जिसका विवरण नीचे अनुसूची में दिया गया है, संशोधित कर दी गई है। मुहरांकन फीस की संशोधित दर 1989-09-06 से लागू होगी:

## अनुसूची

क्र. सं.	उत्पाद/उत्पाद श्रेणी	सम्बद्ध भारतीय मानक की संख्या और वर्ष	इकाई	प्रति इकाई मुहरांकन फीस
1	2	3	4	5
1.	बेसी स्पिरिट (भासवित)	IS : 5287-1978	100 लिटर	रु. 1.00

[संख्या: सीएमडी/13 : 10]

एस. सुब्राह्मनियन, उप महानिदेशक

S.O. 2955.—In partial modification of the Ministry of Food and Civil Supplies (Deptt. of Civil Supplies) (Indian Standards Institution) notification number S.O. 2405 dated 1984-06-29 published in the Gazette of India, Part-II, Section-3, Sub-section (ii) dated 1984-07-28 the Bureau of Indian Standards, hereby, notifies that the marking fee per unit for country spirit (distilled) details of which are given in the Schedule here to annexed, has been revised. The revised rate of marking fee shall come into force with effect from 1989-06-01:

## SCHEDULE

Sl. No.	Product/Class of Product	No. & Year of the Relevant Indian Standard	Unit	Marking Fee per Unit
(1)	(2)	(3)	(4)	(5)
1.	Country spirit (distilled)	IS: 5287—1978	100 Litres	Re. 1.00

[No. CMD/13 : 10]

S. SUBRAHMANYAN, Dy. Dir. Genl.

## स्वास्थ्य और परिवार कल्याण मंत्रालय

नई दिल्ली, 1 नवम्बर, 1989

का.आ. 2967—केन्द्रीय सरकार भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारतीय आयुर्विज्ञान परिषद् से परामर्श करने के पश्चात् उक्त अधिनियम की पहली अनुसूची में निम्नलिखित और संशोधन करती है अर्थात्:—

उक्त अनुसूची में दिल्ली विश्वविद्यालय शीर्षक के नीचे निम्नलिखित प्रविष्टियाँ अंत में अंतःस्थापित की जाएंगी अर्थात्:—

“भौतिक आयुर्विज्ञान एवं पुनर्स्थापन में डिप्लोमा—डी.पी.एम.आर.”

[संख्या बी.-11015/22/89-एम.ई.(पी.)]

## MINISTRY OF HEALTH AND FAMILY WELFARE

New Delhi, the 1st November, 1989

S.O. 2967.—In exercise of the powers conferred by sub-section (2) of section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendment in the First Schedule to the said Act, namely:—

In the said Schedule, under the heading University of Delhi, the following entries shall be inserted at the end, namely:—

“Diploma in Physical Medicine & Rehabilitation—D.P.M.R.”

[No. V. 11015/22/89-ME(P)]

का.आ. 2968—केन्द्रीय सरकार भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उपधारा (2) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए भारतीय आयुर्विज्ञान परिषद् से परामर्श करने के पश्चात् उक्त अधिनियम की पहली अनुसूची में निम्नलिखित और संशोधन करती है अर्थात्:—

उक्त अनुसूची में गुरु नानकदेव विश्वविद्यालय शीर्षक के नीचे निम्नलिखित प्रविष्टियाँ अंत में अंतःस्थापित की जाएंगी अर्थात्:—

“डाक्टर आफ मेडिसिन (सूक्ष्मजीव विज्ञान) --एम.डी. (सूक्ष्मजीव विज्ञान)”

[संख्या बी.-11015/31/89-एम ई(पी)]

S.O. 2968.—In exercise of the powers conferred by sub-section (2) of section 11 of the Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendments in the First Schedule to the said Act, namely:—

In the said schedule, under the heading Guru Nanak Dev University, the following entries shall be inserted at the end, namely:—

“Doctor of Medicine (Microbiology) M.D. (Micro)”  
[No. V. 11015/31/89-ME(P)]

नई दिल्ली, 9 नवम्बर, 1989

का.आ. 2969—केन्द्रीय सरकार, भारतीय आयुर्विज्ञान परिषद् अधिनियम, 1956 (1956 का 102) की धारा 11 की उपधारा (2)

द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, और भारतीय आयुर्विज्ञान परिषद् से परामर्श करने के पश्चात् उक्त अधिनियम की पहली अनुसूची में निम्नलिखित संशोधन करती है, अर्थात्:

उक्त अनुसूची में मेरठ विश्वविद्यालय शीर्षक के नीचे निम्नलिखित प्रविष्टि अंत में अंतःस्थापित की जाएगी, अर्थात्:

“डाक्टर आफ मेडिसिन एम.डी. (संवेदना हरण विज्ञान)  
(संवेदना हरण विज्ञान)

संवेदना विज्ञान में डिप्लोमा डी.ए.”

[संख्या बी. 11015/18/89-एम.ई. (पी.)]

आर. श्रीनिवासन, अवर सचिव

New Delhi, the 9th November, 1989

S.O. 2969.—In exercise of the powers conferred by sub-section (2) of section 11 of the Indian Medical Council Act, 1956 (102 of 1956), the Central Government, after consulting the Medical Council of India, hereby makes the following further amendment in the First Schedule to the said Act, namely:—

In the said Schedule, under the heading Meerut University, the following entries shall be inserted at the end, namely:—

“Director of Medicine (Anaesthesiology) M.D. (Anaes)  
Diploma in Anaesthesio D.A.”

[No. V. 11015/10/89-ME.(P)]

R. SRINIVASAN, Under Secy.

## मानव संसाधन विकास मंत्रालय

(शिक्षा विभाग)

नई दिल्ली, 25 अगस्त, 1989

का.आ. 2970—केन्द्रीय सरकार राजभाषा (संव के सरकारी प्रयोजनों के लिए प्रयोग) नियम, 1976 के नियम 10 के उपनियम (4) के अनुसरण में मानव संसाधन विकास मंत्रालय (शिक्षा विभाग) के अन्तर्गत कार्यरत निम्नलिखित कार्यालय को जिसके 80 प्रतिशत से अधिक कर्मचारियों ने हिन्दी का कार्यसाधक ज्ञान प्राप्त कर लिया है अधिसूचित करती है:

राष्ट्रीय शैक्षिक अनुसंधान और प्रशिक्षण परिषद्,  
श्री अरविन्द मार्ग  
नई दिल्ली-110016

[सं. ई.-11011/21/89-रा.भा.ए.]

मदन मोहन दरगन, सहायक निदेशक (राजभाषा)

MINISTRY OF HUMAN RESOURCE DEVELOPMENT  
(Deptt. of Education)

New Delhi, the 25th August, 1989

S.O. 2970.—In pursuance of Sub-Rule (4) of Rule 10 of the Official Languages (Use for the Official Purposes of the Union) Rules, 1976, the Central Government hereby notifies the undermentioned office under the Ministry of Human Resource Development

(Deptt. of Education), more than 80% of staff of when has acquired working knowledge of Hindi :—

National Council of Educational  
Research and Training,  
Sri Aurobind Marg,  
New Delhi-110016.

[No. E. 11011/21/89-OLU]

MADAN MOHAN DARGAN, Asstt. Director (O.L.)

(संस्कृति विभाग)

नई दिल्ली, 6 अक्टूबर, 1989

का.आ. 2971.—चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 9 क साथ पठित चलचित्र अधिनियम, 1952 (1962 का 37), की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केन्द्रीय सरकार भारतीय पुरातत्व सर्वेक्षण, हैदराबाद के अधीक्षक पुरातत्वविद् श्री ए.पी. सागर को केन्द्रीय फिल्म प्रमाणन बोर्ड हैदराबाद के अपर क्षेत्रीय अधिकारी के पद का कार्यभार तत्काल प्रभाव से अगले आदेशों तक सौंपती है।

[801/7/89-एफ.सी.]

(Department of Culture)

New Delhi, the 6th October, 1989

S.O. 2971.—In exercise of the powers conferred by sub-section (ii) of section 5 of the Cinematograph Act, 1952 (37 of 1952) read with Rule 9 of the Cinematograph (Certification) Rules, 1983, the Central Government is pleased to assign the duties of Additional Regional Officer, Central Board of Film Certification at Hyderabad to Shri A. P. Sagar, Superintending Archaeologist, Archaeological Survey of India, Hyderabad, with immediate effect until further orders.

[801/7/89-FC]

नई दिल्ली, 9 नवम्बर, 1989

का.आ. 2972.—चलचित्र (प्रमाणन) नियमावली, 1983 के नियम 8 के उप-नियम (1) और (2) के साथ पठित नियम 7 के उप-नियम (3) और चलचित्र अधिनियम, 1952 (1952 का 37) की धारा 5(1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार बंगलौर स्थित केन्द्रीय फिल्म प्रमाणन बोर्ड के क्षेत्रीय सलाकार के रूप में निम्न-लिखित व्यक्तियों को तत्काल से अगले आदेशों तक नियुक्त करती है:

1. श्री सी.पी. जयराम
2. श्री आर. मंजूनाथ
3. श्रीमती के.एम. प्रभा देवी
4. सुश्री एन.एस. रत्नप्रभा
5. डा. एम. रामकृष्ण
6. प्रो. आई.जी. सनादी
7. श्री हलप्पा गोवड़ा
8. श्रीमती बानु जियदेव
9. श्री चन्द्रशेखर हीरेमद
10. डा. बी.जी. सुवर्णा
11. श्री बी.एल. गोवड़ा
12. श्री वकटरामन शेटी
13. श्री मनोहर आईनापुर

14. श्री बी.जी. अरुण कुमार
15. श्रीमती कमला करियप्पा
16. श्रीमती नलिनी रवि शंकर
17. श्री एस.एन. शान्तप्पा

[संख्या 814/2/88-एफ.सी.]

अंशु वैश्य निदेशक

New Delhi, the 9th November, 1989

S.O. 2972.—In exercise of the powers conferred by Section 5(1) of the Cinematograph Act, 1952 (37 of 1952) and sub-rule (3) of Rule 7 read with sub-rule (1) and (2) of Rule 8 of the Cinematograph (Certification) Rules, 1983, the Central Government hereby appoints the following persons as members of the Regional Advisory Panel of the Central Board of Film Certification, at Bangalore, with immediate effect and until further orders :—

1. Shri C. P. Jayaram
2. Shri R. Manjunath
3. Smt. K. M. Prabha Devi
4. Ms. N. S. Ratnaprabha
5. Dr. M. Ramakrishna
6. Prof. I. G. Sanadi
7. Shri Halappa Gowda
8. Smt. Banu Vijayadev
9. Shri Chandrashekhar Hiremath
10. Dr. B. G. Suvarna
11. Shri B. L. Gowda
12. Shri Venkataramana Setty
13. Shri Manohar Ainapur
14. Shri B. G. Arun Kumar
15. Smt. Kamala Kariappa
16. Smt. Nalini Ravi Shankar
17. Shri S. N. Shanthappa.

[No. 814/2/88-FC]

ANSHU VAISH, Director.

### श्रम मंत्रालय

नई दिल्ली 1 नवंबर, 1989

का.आ. 2973.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व ईस्टर्न कोल-फील्ड्स लि. का हारिपुर कोलियरी के प्रबंधन से संबंधित नियोजकों और उनके कर्मचारों के बीच, अनबंद में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कलकत्ता के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 27/10-89 प्राप्त हुआ था।

### MINISTRY OF LABOUR

New Delhi, the 1st November, 1989

S.O. 2973.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Calcutta as shown in the Annexure in the industrial dispute between the employers in relation to the management of Haripur Colliery of M/s. Eastern Coalfields Ltd. and their workmen, which was received by the Central Government on 27th October, 1989.

### ANNEXURE

### CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL, AT CALCUTTA

Reference No. 1 of 1987

### PARTIES :

Employers in relation to the management of Haripur Colliery of M/s. Eastern Coalfields Limited.



AND  
Their workmen.

PRESENT :

Mr. Justice Sukumar Chakravarty, Presiding Officer.

APPEARANCES :

On behalf of employer—Mr. P. Banerjee, Advocate.

On behalf of workmen—Mr. Yar Mohammad, Assistant Secretary of the Union.

STATE : West Bengal

INDUSTRY : Coal

#### AWARD

By Order No. L-19012/18/86-D.IV (B) dated 19-12-1986 the Government of India, Ministry of Labour referred the following dispute to this Tribunal for adjudication :

"Whether the action of the management of Haripur Colliery of M/s. Eastern Coalfields Limited in dismissing S/Shri Ramanandan Ram, Pit Clerk and Nizamuddin, Security Guard, is justified? If not, to what relief the workmen concerned are entitled?"

2. The case as made out in the written statement filed on behalf of two concerned workmen, Ramanandan Ram and Nizamuddin is briefly as follows: Both the concerned workmen were employees of the Haripur Colliery of Eastern Coalfields Limited. Both the workmen were made victims of the management's anti labour policy and both of them were illegally and unjustly dismissed from service on false and frivolous charges.

3. Ramanandan Ram began his career as Pit Clerk long before the nationalisation of the Coal industry. He was placed in Grade-II under the agreement reached between the management and the Indian National Trade Union Congress. Since the very beginning his duties were described in the job description fixed under the Coal Board Award of 1966. In the year of 1966 the management decided to standardise the job of Tub Checker, Traffic Munshi and Pit Munshi and to designate them as Pit Clerk. Under the said scheme Ramanandan Ram was asked to do some additional work as Pit Clerk for which the management agreed to pay special allowance equal to two overtime wages. Ramanandan Ram as well as other Pit Clerks who were placed in Grade-II were all required to do the additional work of preparing Form IV, issue of measurement slip and maintenance of "Lead and Lift" and pushing etc. for which two overtime wages were paid till May, 1983 when such payment of overtime wages was abruptly stopped. Ramanandan Ram protested against the stoppage of such special allowance and refused to do additional work. The management being enraged issued the charge-sheet on 6-8-1983 against him for his wilful insubordination under the Model Standing Orders. Ramanandan Ram was also placed under suspension pending the domestic enquiry. The management got the domestic enquiry held in violation of the principle of natural justice. The Enquiry Officer wrongly found the concerned workman guilty of the charge and submitted his report. The management accepted the report of the Enquiry Officer and dismissed Ramanandan Ram from service.

4. The other concerned workman Nizamuddin Mia was the Security Guard under the management. The management issued the charge-sheet dated 3-11-1981 against him alleging that on 9-6-1981, while on duty in the second shift the concerned workman had signed one challan as a token of receipt of the coal without getting the coal unloaded at the depot and allowed the loaded Dumper Truck No. WWH 4768 to come out from the siding in connivance with the Driver with the intention to sell coal. Nizamuddin gave reply to the charge saying that the same was false and baseless. The management however started the domestic enquiry and the Enquiry Officer in violation of the principle of natural justice held the domestic enquiry and found the concerned workman guilty of the charge. The report sent by the Enquiry Officer

was accepted by the management and the concerned workman was dismissed from service.

5. According to the Union sponsoring the cause of both the concerned workmen, the dismissal of both the concerned workman was illegal and unjustified. The concerned workman accordingly have sought for the appropriate relief under the present reference.

6. The case as made out by the management in their written statement is briefly as follows: According to the management Shri S. Yar Mohammad describing himself as the Assistant Secretary of the West Bengal Coalfields Shramik Congress has got no locus standi to represent the Union sponsoring the cause of the concerned workmen.

7. The concerned workman Ramanandan Ram was working as a Pit Clerk at Haripur Colliery under the management and as a Pit Clerk it was his duty to record the particulars of "Lead and lift" and "reloading" in Munshi report required to be submitted by the Pit Clerk. On 5-1-1983 Ramanandan Ram had duty in the third shift and in his report he mentioned some of the tubs having been fully loaded although they were found under-loaded. Ramanandan Ram who was required to record the particulars of "lead and lift" and "reloading" during his shift, did not make any report regarding the same on 1-8-1983. Consequently Ramanandan Ram was charge-sheet in accordance with the Model Standing Orders. The concerned workman denied the charges. The management started domestic enquiry against Ramanandan Ram and the Enquiry Officer who held the domestic enquiry in accordance with the principle of natural justice, found Ramanandan Ram guilty of the charge of not recording the particulars of "lead and shift" and "reloading" on 1-8-1983. The report submitted by the Enquiry Officer was accepted by the management and the concerned workman was dismissed from service in accordance with the Model Standing Orders. There was no illegality or absence of any justification on the part of the management in dismissing the concerned workman.

8. As regards the other concerned workman Nizamuddin he was employed to serve as a Security Guard at Haripur Colliery. On 9-6-1981 he had his duty in the second shift. During his duty hours he was required to sign the copies of all challans transporting coals to depot, as a token of receipt of the coal at the depot and he was also required to maintain a register in which the Truck Driver transporting coal into the depot used to sign. On the said date (9-6-1981) in the second shift the Dumper Truck No. WWH 4768 unloaded three trips of coal at the depot. The said Dumper reached the depot at about 10.25 P.M. on 9-6-1981 with coal from Kumarkhella unit. The concerned workman Nizamuddin allowed the Dumper Driver to go away with the loaded coal without getting the same unloaded, through Chora Colliery siding with the intention to sell the said coal elsewhere in connivance with the Driver of the Dumper. The said Dumper subsequently met with an accident near Nehru Bidyapith on Gaighata—Ukhra road and as a result thereof the Driver of the Dumper died at the spot. When the aforesaid facts came to light the management charge sheeted the concerned workman for committing misconduct of theft and dishonesty in connection with the management's business and property and in accordance with the Model Standing Orders got the domestic enquiry held through the Enquiry Officer. The Enquiry Officer found the concerned workman guilty of the charge on the basis of the domestic enquiry and submitted his report. The management accepted the report of the Enquiry Officer and dismissed the concerned workman from service. The management was justified in dismissing the concerned workman from service in view of the gravity of the misconduct.

9. Both the concerned workmen are not entitled to any relief according to the management.

10. In a reference of this nature involving the dismissal of the workman, the Tribunal first decided the preliminary issue with regard to the validity of the domestic enquiry against each of the concerned workman and by its order dated 6-9-1989 found that the domestic enquiry held by the Enquiry Officer was valid. The Tribunal thereafter heard the individual case on merit on the basis of the materials in the record.

11. Mr. Banerjee appearing for the management made his submission and has also filed written argument in support of his submission. Similarly Mr. Yar Mohammad for the workman has made his submission and also filed the written argument in support of his submission.

12. The management's preliminary objection to the effect that Mr. Yar Mohammad has no locus standi to represent the workmen concerned does not stand to any reason. The Management has not disputed the fact that Mr. Yar Mohammad was the Assistant Secretary of the West Bengal Coalfields Shramik Congress. The management has not also given any evidence to show that the concerned workmen are not the members of the said Shramik Congress. Mr. Yar Mohammad as the Assistant Secretary of the said Shramik Congress can legally represent the concerned workmen.

13. The case of Ramanandan Ram is taken-up first. The charge-sheet against Ramanandan Ram is Ext. M-1 (a) according to the management. It appears therefrom that Ramanandan Ram was chargesheeted for wilful insubordination as his Munshi Report dated 1-8-1983 did not record the "lead and lift" and "reloading". Ramanandan Ram was not charge-sheeted for the report mentioning that the tubs were fully loaded although they were under-loaded as mentioned in the written statement of the management. Ramanandan Ram's reply to the said charge is Ext. M-1 (b). In the said reply Ramanandan Ram has categorically stated that regarding the lead measurement the Agent of the Haripur Colliery as per their notice dated 7-8-1983 held a meeting on 8-8-1983 to discuss the matter relating to the lead measurement with the union representative and Pit Clerks and that after discussion it was decided that the Pit Clerk would be given two overtime wages in a month as additional wages for doing such additional work of measuring the lead and lift and reloading. It has been further mentioned in the said reply that upto May, 1983 Ramanandan Ram was getting the said overtime wages from the management and that from June, 1983 the said privilege was stopped by the management. Consequently the concerned workmen also stopped recording the measurement of "lead and lift" and "reloading" which in addition to his normal duty.

14. The management has examined several witnesses and the delinquent workman also has given defence evidence including his own statement before the Enquiry Officer.

15. The statement given by the delinquent workman Ramanandan Ram before the Enquiry Officer supports his reply given in response to the charge. It has been clearly stated in his statement that previously three Munshies were engaged for measuring the "lead and lift" upto 1980 and that thereafter because of some disturbance among the loaders the "lead and lift" was being measured two days in a week by one Partha Chatterjee and that thereafter because of the persistent demand of the loaders for getting the "lead and lift" measured every day, a meeting took place on 7-8-1981 between the Agent of the Colliery and the Union representatives and it was decided that two overtime wages per month would be paid to the Pit Clerks including the concerned workman for measuring "lead and lift". The said system continued upto May, 1983 and the concerned workman was getting the two overtime wages in a month for his measuring the "lead and lift" etc. The statement further shows that from June, 1983 the management stopped payment of two overtime wages and that accordingly the concerned workmen also stopped the measurement of "lead and lift".

16. The management has not produced any document showing the job description of the Pit Clerks. The delinquent workman in his cross-examination has stated that the Pit Clerks are appointed to see that the loaders are loading properly. The defence witness B. K. Sinha who is the Overman of the Colliery concerned has supported the statement of the delinquent workman in his evidence. His evidence shows that the delinquent workman and other Pit Clerks who used to measure "lead and lift" were paid extra wages by way of two overtime wages in a month. Defence witness B. N. Pandya who is also a Pit Clerk in the Colliery has also supported the statement of the delinquent workman in

his evidence. He has specifically stated in his evidence that to dismount tubs, to take proper load and to make attendance of the loaders are the normal duties of the Pit Clerks. The defence evidence as a whole shows that the measurement of the lead and lift and reloading was not the normal duty of the Pit Clerk.

17. Management witness K. Tewary who is the Senior Personnel Officer of the Colliery has stated in his evidence that the Pit Clerks are required to prepare Form-IV, issue measurement slips and maintain such other records of lead and lift etc. in addition to their normal jobs indicating thereby that the issue of measurement slips by measuring the lead and lift is not the normal duty of the Pit Clerk. So the evidence of management witness K. Tewary appears to have supported the case of the delinquent workman to the effect that the measuring of the lead and lift and reloading is not the normal duty of the Pit Clerk. Management witness M. M. Sinha is the Manager of the Colliery concerned. He has however stated in his evidence that writing of the measurement of the lead and lift etc. was the normal duty of the delinquent workman as a Pit Clerk and that he was not entitled to any extra wages for doing the normal duty. It has already been stated that the management has not produced any record to show the normal duties of the Pit Clerk. Only the Manager in his evidence has stated that measuring lead and lift is also the normal duty of the Pit Clerk. The other evidence both on the side of the management and also on the side of the delinquent workman has however established that measuring the lead and lift was the duty given to the Pit Clerk in addition to the normal duties.

18. It may be mentioned here that no witness on the side of the management has challenged or denied the defence evidence including the statement of the delinquent workman that in a meeting in 1981 between the Agent and representatives of the Union in the Colliery it was decided that the Pit Clerks would also measure the lead and lift and would be paid two overtime wages in a month for their such additional work. It is an undisputed fact that the management in 1983 issued the order stopping the payment of two overtime wages in a month to the Pit Clerks and required the Pit Clerks to do the job of measuring the lead and lift as their normal duty without getting any extra wages by way of two overtime wages in a month. The management has not denied that upto May, 1983 the delinquent workman was paid the extra wages by way of two overtime wages in a month. The management has not come with the explanation why such extra wages used to be paid to the concerned workman. The delinquent workman has given the explanation and his witnesses have also supported the same. It may be that there was no written minutes of discussion of the meeting held on 7-8-1981 between the Agent and the Union representatives but the evidence in the instant reference has established that such a meeting was held and a decision was taken that the extra wages by way of two overtime wages in a month would be paid to the Pit Clerk who would measure lead and lift and reloading.

19. Mr. Banerjee, the Learned Advocate for the management has drawn my attention to the evidence given by defence witness B. N. Pandya in his cross examination wherein he has stated that he knows that the Pit Clerks are kept for measuring the work done by Loaders, so that there is no dispute regarding their wages. This evidence of defence witness Shri Pandya does not however establish that the normal duty of the Pit Clerk was to measure lead and lift. After the agreement in 1981 undoubtedly the Pit Clerks were engaged for measuring the work done by Loaders and the evidence has shown that for such additional work they used to be paid extra wages by way of two overtime wages in a month.

20. I have given due consideration to the materials in the record and I find that the Pit Clerks including the delinquent workman used to be paid extra wages by way of two overtime wages in a month upto May, 1983 for their doing the additional job of measuring the lead and lift and reloading and that the measuring of lead and lift and reloading was not the normal duty of the Pit Clerks at the relevant time.

21. Now the question comes in whether the management can compel the Pit Clerk like that concerned workman to do the job of measuring the lead and lift etc. without paying any extra wages by way of two overtime wages in a month. The facts and circumstances as revealed from the materials in the record and as discussed above, show that the management cannot compel the Pit Clerk like the concerned workman to do such additional job without making payment of extra wages. There is no dispute to the fact that the concerned workman stopped measuring the lead and lift from the date since when the management stopped payment of extra wages by way of two overtime wages in a month to the concerned workman for his doing the job of measuring the lead and lift etc. There is no dispute to the fact that in the report dated 1-8-1983 of the concerned workman, the concerned workman did not mention the measurement of the lead and lift and reloading for which the concerned workman had been charge-sheeted in question is whether the concerned workman has done such act of omission in violation of the lawful order of the superior officer and whether such act of omission on the part of the concerned workman constitutes insubordination resulting in his misconduct.

22. It has already been shown that the management cannot legally require the concerned workman to do the job of measuring the lead and lift etc. in addition to his normal duty without making the payment of extra wages. The management has not also taken resort to the benefits of provisions of the section 9-A of the Industrial Disputes Act, 1947 for such change in the condition of the service of the Pit Clerk like the concerned workman. Be that as it may, the facts and circumstances established in the instant reference have indicated that the management's direction upon the concerned workman to do the job of measuring the lead and lift etc. without making payment of any extra wages was not lawful and that accordingly the non-compliance of such unlawful directions by the concerned workman does not constitute the insubordination in the form of misconduct. The management was therefore not justified in issuing the chargesheet against the concerned workman Ramanandan Ram for his not mentioning the measurement of lead and lift in his Munshi Report dated 1-8-1983 and the Enquiry Officer has also not been justified in finding the concerned workman guilty of the charge. Consequently the management has not been justified in dismissing the concerned workman from service.

23. Now I take up the case of Nizamuddin. The copy of the charge-sheet levelled against him is Ext. M-2 (a). It appears therefrom that on 9-6-1981 Nizamuddin was on duty in the second shift at Haripur Railway Siding as the Security Guard. It further appears from the charge-sheet that on 9-6-1981 in the second shift only three trips of coal were unloaded by Dumper No. WMH-4768 at depot. It further appears from the charge-sheet that the said Dumper reached the depot at 10.25 P.M. with Coal from Kumarkhela unit and that the delinquent workman Nizamuddin signed one challan as a token of Coal received without getting the Coal unloaded at the depot and that Nizamuddin allowed the Dumper Driver to come out from the siding through Chora Colliery Siding along with the loaded Dumper with an intention to sell Coal outside in connivance with the Driver of the Dumper. Such acts of the concerned workman have constituted the misconduct under the Model Standing Orders according to the management.

24. Undoubtedly if the alleged acts as mentioned in the charge-sheet are found to have been committed by the delinquent workman Nizamuddin, then surely the same would constitute the misconduct under the Model Standing Orders. The question is whether the management succeeded in establishing the charge levelled against Nizamuddin at the time of the domestic enquiry held by the Enquiry Officer. The reply to the charge given by Nizamuddin is Ext. M-2 (b). In the said reply Nizamuddin denied the allegations made in the charge-sheet by saying that they were false and baseless.

25. There is no dispute to the fact that the Dumper No. WMH 4768 met with an accident on the alleged date near Nehru Bidyapith and that the Driver died at the spot. It is also an undisputed fact that the Dumper was found loaded with Coal after the accident. The Enquiry Officer placing

reliance on this fact has come to the conclusion that as the Dumper with Coal met with an accident near Nehru Bidyapith at considerable distance from the depot, the said fact establishes that Nizamuddin as a Security Guard had connivance with the Driver for disposal of the loaded Coal dishonestly.

26. Nizamuddin in his statement before the Enquiry Officer has clearly stated that on 9-6-1981 he was on duty from 4 P.M. to 12 P.M. at Haripur Siding. His statement further shows that Coal was transported from K. K. Unit to Haripur Siding through Truck No. WMH 4768 on that date. His statement further shows that he received only four trips of Coal transported by the said Truck and that he signed respective challans as a token of receipt of Coal. His statement further indicates that after unloading all the four trips of Coal the said Truck did not return any more at the siding on that day during his period of duty. The management has charge-sheeted the delinquent workman for allowing the Dumper to go away with the loaded Coal after receipt of three trips of Coal. Curiously enough the management has not produced any challan or any document to show how many trips of coal were received by Nizamuddin after putting his signature on the challan. According to Nizamuddin's statement he received four trips of Coal through the Dumper No. WMH No. 4768 and signed the respective challans. According to the management Nizamuddin received three trips of Coal by the said Dumper and allowed the fourth trip to go away with the loaded Coal in connivance with the Driver of the said Dumper with the intention to sell the Coal outside. The management has not produced any documentary evidence to show that Nizamuddin received only three trips of Coal through the said Dumper on the date of occurrence. The oral evidence as adduced by the witnesses of the side of the management has also not established the involvement of the concerned workman as Security Guard in allowing the Dumper to go away with the loaded Coal without unloading at the depot of the Company.

27. I have given due consideration to the evidence of A. K. Bhatt, Ex-Agent of the Colliery and the evidence of other witnesses on the side of the management and I find that the management could not establish that Nizamuddin received only three trips of Coal and allowed the fourth trip to go away with the loaded Coal in pursuance of any dishonest intention. The evidence of other witnesses like Sisir Ghosh, Mahendra Harija, Dhamu Mohankora do not establish the involvement of the delinquent workman in the alleged misconduct. On the other hand, the evidence of Sisir Ghosh shows that alongwith the 5th trip of Coal, one Ramdhan Saw took away some partly filled up challans.

28. On due consideration of the materials in the record I find that the Enquiry Officer was not justified in finding the concerned workman guilty of the charge specially in the absence of the documentary evidence in the form of challans etc. The management could have shown by production of the relative register and the challans that four trips of Coal were carried by the Dumper in question and that the delinquent workman as Security Guard only received three trips of Coal by signing the challans and that he allowed the fourth trip to go away without unloading the Coal and that the concerned workman signed the challan as a token of receipt of Coal of the said fourth trip. It is the definite case of the delinquent workman that he received four trips of Coal and signed the respective challans. The management has not given any evidence also to show that the Coals received by the delinquent workman through the dumper in question on the date of occurrence were the coals of three trips and not of four trips. In a case of this nature where the delinquent workman is charged for theft and dishonesty in respect of the management's property, the standard of proof must be satisfactory and convincing. It appears that the Enquiry Officer basing on the find of loaded dumper involved in an accident near Nehru Bidyapith, came to the conclusion that the loaded dumper was allowed to go out of the depot by the Security Guard dishonestly in connivance with the Driver. In the absence of material evidence to establish the involvement of the delinquent workman in such misconduct, it will not be safe to arrive at the conclusion that the delinquent workman committed such misconduct. The Enquiry Officer has not been justified in finding the delinquent workman guilty of the charge on the basis of the

record. The management accordingly has not been justified accepting the said report of the Enquiry Officer and in dismissing the concerned workman from service on the basis of such report.

29. In view of what has been discussed above, I find that the action of the management in dismissing both the concerned workmen from service for the respective charge levelled against them has not been justified. Both the concerned workman are entitled to re-instatement to the service with back wages as there is no evidence before me to show that the two workmen concerned had been employed elsewhere in the meantime.

30. In the result the order of dismissal passed against Ramanandan Ram and Nizamuddin is set aside and each of them be re-instated to their service with back wages.

This is my Award.

Dated, Calcutta,  
The 19th October, 1989.

SUKUMAR CHAKRAVARTY, Presiding Officer  
[No. L-19012(18)/86-D.IV (B)]  
R. K. GUPTA, Desk Officer

नई दिल्ली, 3 नवम्बर, 1989

क. प्र. 2974.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व मैसर्स वेस्टर्न कोलफील्ड्स लि. की एकत्रेहरा कोलियरी के प्रबंधन से संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-10-79 प्राप्त हुआ था।

New Delhi, the 3rd November, 1989

S.O. 2974.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Eklehra Colliery of M/s. W.C. Ltd., Pench Area and their workmen, which was received by the Central Government on 31-10-89.

#### ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(65)/1988

#### PARTIES :

Employers in relation to the management of Eklehra Colliery of Western Coalfields Ltd. P.O. Eklehra, District Chhindwara (M.P.) and their workmen S/Shri Ram Prasad S/o. Damadoo, Fitter and Ramkhilawan S/o Ramdeen, Dresser, represented through the Dy. General Secretary, M.P.K.K.M.P. (HMS), P.O. Junnardeo, District Chhindwara (M.P.)

#### APPEARANCES :

For Union.—Shri G. N. Shah, General Secretary & Shri Riyaz Ahmad, Dy. General Secretary.

For Management.—Shri A. K. Shashi, Advocate & Shri S. B. Katiyar, Addl. Chief Personnel Manager.

INDUSTRY : Coal Mine. DISTRICT : Chhindwara (M.P.)

#### AWARD

Dated, October, 24, 1989

The Government of India, Ministry of Labour, vide its Order No. L-21011/5/88-D.III(B) dated 17/30-6-1988 re-

ferred the following dispute to this Tribunal, for adjudication :—

“Whether the action of the Mine Manager, Eklehra Colliery, WCL Pench Area, Parasia in not paying wages for unavailed portion of earned leave at the credit of the workmen S/Shri Ramprasad S/o Damadoo, fitter and Ramkhilawan S/o Ramdeen, Dresser before their retirement is justified. If not, to what relief the concerned workmen are entitled ?”

2. In brief the claim of the Union and the workman S/Shri Ram Prasad S/o Damadoo, fitter and Ramkhilawan S/o Ramdeen, Dresser is that they were oldest workmen of the Company. They had earned their leave in the year 1986 which they were entitled to enjoy in the year 1987. Both the workmen retired on 1-1-87. Therefore, it was not possible to avail of the same. As per rules the workman can deposit the leave upto 70 days. Management did not pay wages for the unavailed portion of earned leave at their credit. They have, therefore, prayed for an order for the payment of the wages of unavailed earned leave with interest and costs.

3. Counsel for the management, Shri R. Menon, filed a Memorandum of Settlement on 14-2-1989. The terms of settlement, duly signed by S/Shri Riaz Ahmad, S. S. Chourasia, Ramkhilawan and Ramprasad on behalf of the workmen and S/Shri S. B. Katiyar and C. L. Jaiswal on behalf of the management, are as under :—

1. It is agreed by the management to pay due earned proportionate leave to S/Shri Ram Khilawan and Ram Prasad who were retired from service with effect from 1-1-87 and 16-7-87 respectively in accordance with Section 52(10) of the Mines (Amendment) Act, 1983.

2. The Union agreed to give up all other claim/benefit and accept the above terms as full and final settlement and shall not claim any other benefit in respect of the matter in dispute.

3. This settlement shall not be treated as a precedent in any other case.

4. S/Shri S. B. Katiyar and Riaz Ahmad appeared before this Court on 19-10-1989 and verified their signatures on the said compromise petition. Parties said that they have arrived at the settlement in the terms given in the petition of settlement. The terms of settlement appears to be just and lawful. I therefore, record my award in terms of the aforementioned settlement. No order as to costs.

V. N. SHUKLA, Presiding Officer

[N. L-12011/(5)/88-D.III]TR(C.II)]

क. प्र. 2975.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व मैसर्स वेस्टर्न कोलफील्ड्स लि. की न्यूटन चिकली कोलियरी के प्रबंधन से संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-10-89 प्राप्त हुआ था।

S.O. 2975.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Newton Chikli Colliery of M/s. Western Coalfields Ltd. and their workmen, which was received by the Central Government on 31-10-89.

BEFORE THE PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(74)/1988

PARTIES :

Employers in relation to the management of Western Coalfields Ltd., Pench and Kanhan Area, P.O. Parasias, District Chhindwara (M.P.) and their workmen, Shri Nawal Kishore Yaduvanshi, Ex-Mazdoori Clerk, Newton Chickli 'B' Colliery P.O. Newton, District Chhindwara (M.P.).

APPEARANCES :

For Workman—Shri Rambagas Radwe.

For Management—Shri A.K. Shasi, Advocate.

INDUSTRIAL : Coal Mine DISTRICT : Chhindwara (M.P.)

AWARD

Dated : October 24th, 1989

The Government of India, Ministry of Labour, vide its Order No. L-21012/15/88-D-3(B) dated 18-2-1988, referred the following dispute to this Tribunal, for adjudication :

"Whether the action of the management of Newton Chickli Colliery of Western Coalfields Ltd., in dismissing Sri Nawal Kishore Yaduvanshi Wages Clerk from service with effect from 22-8-83 is fair and justified ? If not, to what relief the workman is entitled?"

2. In short the claim of the workman, Shri Nawal Kishore Yaduvanshi, is that he was employed as a permanent clerk since 1972. He was doing the job of Token Clerk. He was charge-sheeted for certain alleged misconduct and an enquiry was held. Thereafter, the management of Western Coalfields Ltd., Newton Chickli Colliery imposed the punishment of dismissal from service with effect from 22-8-83. He alleged that he did the work with all sincerity and honesty and it was not proved in the enquiry that he indulged in any sort of misconduct mentioned in Clause 17(1)(a). Therefore, his dismissal is unjustified and he is entitled to reinstatement with full wages.

3. Parties sent a Memorandum of Settlement which was received in this Court on 4-9-1989. The terms of settlement were duly signed by S/Shri S. B. Singh and Rambagas on behalf of the Union as also by the workman Shri Nawal Kishore Yaduvanshi and S/Shri S. B. Katiyar and C. L. Jaiswal on behalf of the management, which are as under :—

1. It is agreed by the management that Sri Nawal Kishore Yaduvanshi, Ex-Wages Clerk will be re-employed subject to medical fitness by the Company's Medical Officer, on the wages he was getting prior to his dismissal with the consequential fitment under NCWA-III.
2. Since he was dismissed on the basis of proved misconduct the period of his non-employment from 22-8-83 to the date of his joining will be treated as "Dies-non". However his continuity of service will be considered for the purpose of payment of Gratuity only if his performance is found satisfactory after joining within one year.
3. He will report for duty to the colliery Manager, in any one of the colliery where there is a requirement in Pench Area.
4. The Union/workman agree to give up all other claim/benefits and accept the above terms as full and final/settlement and shall not claim any other benefit in respect of the matter in dispute.

3285 GI/89—4.

5. This settlement shall not be treated as a precedent in any other case.

4. On 18-10-1989 Shri Rambagas Radwe verified the settlement and signatures thereon on behalf of the Union S/Shri A. K. Shasi, Advocate and A. K. Singh also verified the settlement and signatures thereon on behalf of the management.

5. I have gone through the terms of the settlement which appear to be just and lawful. I, therefore, record my award in terms of the settlement arrived at between the parties and make no order as to costs.

V. N. SHUKLA, Presiding Officer  
[No. L-21012/15/88-D. III-B/IR (C-II)]

का. अ. 2976.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) का धारा 17 के अनुसरण में, केन्द्रीय सरकार व मैसर्स सिंगरेनी कोलियरी क. लि. एरिया II रामगुंडम डिविजन के प्रबंधन से संबंधित निरीक्षकों और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचद को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-11-89 को प्राप्त हुआ था।

S. O. 2976.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Industrial Tribunal Hyderabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. Singareni Collieries Co. Ltd. Area-II Ramagundam Divn. and their workmen, which was received by the Central Government on 1-11-89.

ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT  
HYDERABAD

PRESENT :

Sri C. Rami Reddy, BSc., B.L., Industrial Tribunal.

Dated : 17th October, 1989

Industrial Dispute No. 75 of 1988

BETWEEN

The Workmen of S.C. Co. Ltd. Area, II, Ramagundam Division, Dist. Karimnagar (A.P.).

AND

The Management of S.C.Co. Ltd., Area-II, Ramagundam Division, Dist. Karimnagar.

APPEARANCES :

None—for the workmen.

M/s. K. Srinivasa Murthy, G. Sudha, Mitra Das and V. Ranga Reddy, Advocates—for the Management.

AWARD

The Government of India, Ministry of Labour by its Order No. L-21012/25/88-II(D)(B), dated 29-7-1988 referred the following dispute under Sections 10(1)(d) and (2-A) of the Industrial Disputes Act, 1947 between the employers in relation to the Management of M/s. Singareni Collieries Company Limited, Area-II, Ramagundam Division, District Karimnagar and their Workmen to this Tribunal for adjudication :

"Whether the management of M/s. Singareni Collieries Co. Ltd. Area-II, Ramagundam Division, P. O. Godavarikhan, Distt. Karimnagar (A.P.) are justified in denying promotion as Munshi to Shri Inumula Kistaiah, Trammer, GDK 7-A Incline. If not, to what relief the workman concerned is entitled ?"

This reference was registered as Industrial Dispute No. 75 of 1988 and notices were issued to the parties.

2. Notice was issued to the Workmen Union with a direction to file claim statement on or before 7-9-1988. The Workmen-Union received the notice but failed to appear as well as failed to file claim statement on 7-9-1988, 4-10-1988, 28-10-1988 to which date the industrial dispute in question was posted for the said purpose. So the Workmen Union was set ex-parte on 28-10-1988.

3. The Management filed a counter stating that the promotion of Munshi from the post of Trammer, is based on Seniority-cum-merit and written test, that the workmen in question was not senior to claim promotion, that the workman in question did not possess the required seniority for promotion as Munshi.

4. The Management examined one M. Ramalingeshwar working as Personnel Officer as M.W.I. He deposed that the promotion of Munshi is based on seniority-cum-merit and written test, that Ex. M1 is the seniority list of trammers as on 28-8-1988, that the workman in question is at S. No. 44 of Ex. M1, that out of the list of Trammers mentioned in Ex. M1 17 persons were selected as Munshis as per Ex. M2, that the workman in question failed in the written test that the marks obtained by the workman are at S. No. 66 of the marks list which is Ex. M2 that the workman in question is not eligible for promotion.

5. In the light of Ex. M1 it can be safely stated that the workman in question is not entitled for promotion.

6. Thus the Management of M/s. Singareni Collieries Company Limited, Area-II, Ramagundam Division, P.O. Godavarikhani, District Karimnagar (A.P.) is justified in denying promotion as Munshi to Sri Inumula Kistaiah, Trammer, GDK 7A Incline and the workman in question is not entitled to any relief.

Award is passed accordingly.

#### Appendix of Evidence

Witnesses Examined  
for the Workmen :  
NIL

Witnesses Examined  
for the Management:  
M.W1 M. Ramalingeshwar Rao.

Documents marked for the Workmen :

NIL

Documents marked for the Management :

Ex. M1 Photostat copy of the letter dt. 28-8-88 of the General Manager, Ramagundam Area-II, S.C. Co. Ltd., to M. Rajam and 48 others with regard to interview for selection for the post of Jur. Grade Munshi.

Ex. M2 Photostat copy of the list of selection of Trammers for the post of Junior Grade Munshies at Godavarikhani.

Ex. M3 Photostat copy of the list of candidates attended the interview.

V. K. SHUKLA, Industrial Tribunal.  
[No. L-21012(25)/88-D.III.B/IR(C.II)]

का. भा. 2977.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूच में, केन्द्रीय सरकार व मैसर्स सिंगरेनी कोलियरीज लि. के प्रबंधन से संबंध नियोक्तों और उनके कर्मचारों के बीच, अनुसूच में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-11-89 को प्राप्त हुआ था।

S. O. 2977.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Industrial Tribunal, Hyderabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. Singareni Collieries Co. Ltd. Area-II, Ramagundam Division and their workmen, which was received by the Central Government on 1st November, 1989.

#### ANNEXURE

#### BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

#### PRESENT :

Sri C. Rami Reddy, B.Sc., B.L., Industrial Tribunal.  
Dated, the 17th October, 1989

Industrial Dispute No. 73 of 1988

#### BETWEEN

The Workmen of S. C. Co. Ltd., Area II

Ramagundam Division, P. O. Godavarikhani,  
District Karimnagar (A.P.).

#### AND

The Management of M/s. S. C. Co. Ltd.,  
Area-II, Ramagundam Division,  
P.O. Godavarikhani, District Karimnagar.

#### APPEARANCES :

None—for the Workmen.

M/s. K. Srinivasa Murthy, G. Sudha, Mitra Das, Sridhar Rao and R. Ranga Reddy, Advocates—for the Management.

#### AWARD

The Government of India, Ministry of Labour by its Order No. L-21011/4/88-D.III(B) dated 26th July, 1988 referred the following dispute under Sections 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 between the employers in relation to the Management of M/s. Singareni Collieries Company Limited, Area-II, Ramagundam Division and their workmen to this Tribunal for adjudication :

“Whether the action of the Management of M/s. Singareni Collieries Co. Ltd., Area-II, Ramagundam Division, P.O. Godavarikhani, District Karimnagar (A.P.) in not promoting S/Shri Dindiala Komariah, Kodati Rajaiah and Tappari Yadalah as Watchman in the monthly grade, is justified. If not, to what relief, the concerned workmen are entitled ?”

This reference was registered as Industrial Dispute No. 73 of 1988 and notices were issued to both the parties.

2. Notice was issued to Workmen-Union with a direction to file claim statement on or before 5th September, 1988. The workmen Union received the notice but failed to appear as well as failed to file claim statement on 5th September, 1988, 29th September, 1988, 28th October, 1988 to which date this industrial dispute was posted for the said purpose. So the Workmen-Union was set ex-parte on 28th October, 1988.

3. The Management filed a counter. The three workmen in question are time rated employees, that the said workmen are not discharging duties like Watchman, that they have no right to demand promotion and that they are not eligible for promotion.

4. The Management examined one M. Ramalingeshwar Rao working as Personnel Officer as M.W.I. He deposed that the workmen in question are time rated employees, that for promotion to Category II, one must possess 7th Class qualification besides passing the aptitude test, that the workmen in question did not possess the required qualification to be considered for promotion, that on 2nd June, 1989 a General Circular was issued directing all the general mazdoors of Category I to submit their applications and the Management

selected certain candidates as per the Circular dated 17th July, 1989 (Ex. M2) and that the workmen in question were not considered for promotion as they did not possess the requisite qualification.

5. As seen from the evidence of M.W. 1 it is clear that the three workmen in question did not possess the required qualification to be considered for promotion.

6. Thus I find that the action of the Management of M/s. Singareni Collieries Company Limited, Area-II, Ramagundam Division, P.O. Godavarikhani District Karimnagar (A.P.) in not promoting S/Shri Dindiala Komariah, Kodati Rajaiah and Tappari Yadiah as Watchmen in the monthly grade, is justified and they are not entitled to any relief.

Award passed accordingly.

#### Appendix of Evidence

Witnesses Examined

for the workmen :

NIL

Witnesses Examined  
for the Management :

M.W.1 M. Ramalingeshwar Rao

Documents marked for the Workmen :

NIL.

Documents marked for the Management :

Ex. M-1—Photostat copy of the Circular dated 2-6-1989 issued to all pits, Department and all Collieries by the General Manager (Personnel) S.C. Co. Limited, Kothagudem Collieries.

Ex. M-2—Photostat copy of the Office Order dated 17-8-1989 issued to M. Murlikrishna and 19 others by the General Manager (Personnel), S.C. Co. Ltd., Kothagudem Collieries.

C. RAMI REDDY, Industrial Tribunal

[No. L-21011/4/88-D III.B/IR(C-II)]

का. अ. 2978.- औद्योगिक विवाद अधिनियम, 1947 (1947 का. 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार व मैसर्स सिंगरेनी कोलियरीज लि. मण्डामर्री के प्रबंधन से संबंध नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में औद्योगिक अधिग्रहण, हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-11-89 प्राप्त हुआ था।

S. O. 2978.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Industrial Tribunal, Hyderabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. Singareni Collieries Co. Ltd., Mandamarri and their workmen, which was received by the Central Government on 1st November, 1989.

#### ANNEXURE

#### BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

PRESENT :

Sri C. Rami Reddy, B.Sc., B.L., Industrial Tribunal.

Dated, the 18th October, 1989

Industrial Dispute No. 48 of 1989

#### BETWEEN

The Workmen of S.C. Co. Ltd., Mandamarri, Adilabad District.

#### AND

The Management of S.C. Co. Ltd., Mandamarri, Adilabad District.

#### APPEARANCES :

S/Sri G. Bikshapathi, G. Vidyasagar, N. Vinesh Rao, V. Vishwanath and K.V.V. Bhasker, Advocate—for the Workmen.

M/s. K. Srinivasa Murthy, G. Sudha, V. Usha Rani and Prasanna, Advocates—for the management.

#### AWARD

The Government of India, Ministry of Labour by its Order No. L-22012 (224)/88-D. IV. B/IR (C. II), dated June, 1989 referred the following dispute under Section 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 between the employers in relation to the Management of Singareni Collieries Company Limited, Mandamarri and their workmen to this Tribunal for adjudication :

"Whether the action of the management of M/s. Singareni Collieries Co. Ltd., Mandamarri in terminating services of Sri Damala Rajam, Coal Filler, KK-5 Incline w.e.f. 15th May, 1985 is justified? If not, to what relief the workman concerned is entitled?"

This reference is registered as Industrial Dispute No. 48 of 1989 and notices were issued to both the parties.

2. Both parties made appearance through Advocates and filed a Memo of Compromise dated 19th September, 1989 which is recorded. Thus an Award is passed in terms of the compromise a copy of which is also enclosed to be read as part of the award.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal this the 18th day of October, 1989.

C. RAMI REDDY, Industrial Tribunal.

#### BEFORE THE INDUSTRIAL TRIBUNAL (CENTRAL) AT HYDERABAD

I.D. No. 48 of 1989

#### BETWEEN

Dammala Rajam.

#### AND

Management of Singareni Collieries Company Ltd.

... Respondent

#### MEMO. OF COMPROMISE

It is respectfully submitted that the workman in dispute Sri Dammala Rajam raised an Industrial Dispute and that was the reason, the case has been referred to this Hon'ble Tribunal for adjudication which was numbered as I.D. No. 48 of 1989. In the mean time, the Management and the Union settled this matter out of court and the settlement was entered on 3rd March, 1989. Accordingly, Sri Dammala Rajam's case was considered by the Management and he was given a fresh appointment. He has joined duty, and is undergoing training. Basing upon the settlement and agreed terms, Sri Dammala Rajam issued a letter on 2nd August, 1989 stating that he is withdrawing the dispute. Accordingly, the job has been given. Thus, this matter was settled out side the court, and the workman in dispute as well as the Union are not going to raise any dispute in any court of law with regard to his previous service matter or with regard to his dismissal on 15th May, 1985.



As such, this Hon'ble Court may be pleased to record the Memo. of Compromise between the parties and pass the Award in terms of the above compromise.

Sd/-  
(DAMMALA RAJAM)

Sd/-  
S. C. Mines Karmika Sangh  
(BMS)

WITNESSES :

(1)

Sd/-

(2)

Sd/-

Sd/-

Management of Singareni  
Collieries Company Ltd.,  
Mandamarri Division.

[No. L-22012(224)/88-D.IV.B/IR(C-II)]

का. आ. 2979 — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व मैम. सिंगरेनी कोलियरीज क. लि. एरिया-II, रामागुन्दम डिविजन के प्रबंधन से संबंध नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-11-89 प्राप्त हुआ था।

S. O. 2979.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Industrial Tribunal, Hyderabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. Singareni Collieries Co. Ltd., Area-II, Ramagundam Divn. and their workmen, which was received by the Central Government on 1-11-89.

ANNEXURE  
BEFORE THE INDUSTRIAL TRIBUNAL AT  
HYDERABAD

Dated, 17th October, 1989

Industrial Dispute No. 113 of 1988

BETWEEN

The Workmen of S.C. Co. Ltd., Area-II, Ramagundam  
Division, P.O. Godavarikhani, Karimnagar District.

AND

The Management of S.C. Co. Ltd., Area-II, Ramagundam  
Division, P.O. Godavarikhani, Karimnagar District,  
(A.P.).

APPEARANCES :

None—for the Workmen.

M/s. K. Srinivasa Murthy, G. Sudha and Mitra Das,  
Advocates—for the Management.

AWARD

The Government of India, Ministry of Labour by its Order No. L-22012/78/88-D.IV.B, dated 20-12-1988 referred the following dispute under Section 10(I)(d) and (2A) of the Industrial Disputes Act, 1947 between the employers in relation to the management of Singareni Collieries Company Limited, Area-II and their workmen to this Tribunal for adjudication :

"Whether the action of the management of M/s. Singareni Collieries Co. Ltd., Area-II Ramagundam Division in denying promotion as Helpers in Cat. II to S/Sri K. Ravinder Reddy, Thota Lingaiah, Thandra Rayamallu, R. Muthi Lingam, Erla Ling-

aiah and G. Rajaiah, General Mazdoors, 6 CSP & CHP is justified? If not, to what relief the workmen concerned are entitled?"

This reference was registered as Industrial Dispute No. 113 of 1988 and notices were issued to the parties.

2. Notice was issued to the Workmen Union with a direction to file claim statement on or before 3-2-1989. A fresh notice was also issued to the Workmen-Union on 10-3-1989 with a direction to file claim statement by 4-4-1989. The Workmen-Union received notices but failed to appear as well as failed to file claim statement on 4-4-1989, 26-4-1989, 20-5-1989, 22-5-1989 and 16-6-1989 to which date the industrial dispute in question was posted for the said purpose. So the Workmen Union was set ex parte on 16-6-1989.

3. The Management filed a counter stating that promotions are given basing upon the Trade Test against vacancies that arise from time to time at Division level, that no employee is having any right to demand for promotion, that 11 mazdoors including the 6 workmen in dispute from 6 CSP/CHP as well as some other eligible candidates were called for the Trade Test, that the 6 workmen in question failed in the Trade Test, that all the 7 vacancies were filled up and that there are no existing vacancies for promotion as Helpers and that the reference itself is liable to be terminated.

4. The Management examined one Ramalingeshwar Rao working as Personnel Officer as M.W. 1. He deposed that there is surplus staff in Category II at 6 CSP where the workmen in question are working and that the workmen in question do not possess the requisite qualification at 6 C.S.P., for cancelling their case for promotion.

5. In the light of the evidence of M.W. 1 it is clear that the workmen in question do not possess the requisite qualifications for promotion as Helpers, even to consider their case for promotion. When such is the case the question of promoting the workmen in question does not arise.

6. Thus the action of the Management of M/s. Singareni Collieries Company Limited, Area-II, Ramagundam Division in denying promotion as Helpers in Category II to S/Sri K. Ravinder Reddy, Thota Lingaiah, Thandra Rayamallu, R. Muthi Lingam, Erla Lingaiah and G. Rajaiah, General Mazdoors, 6 CSP & CHP is justified and the workmen in question are not entitled to any relief.

Award is passed accordingly.

C. RAMI REDDY, Industrial Tribunal

Appendix of Evidence

Witnesses Examined  
for Workmen :

NIL

Documents marked for the Management :

NIL

Documents marked for the Workmen :

NIL

[No. L-22012/75/88-D.IV.B/IR(C-II)]

का० आ० 2980 — औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार व मैम. सिंगरेनी कोलियरीज क. लिम. एरिया-II, रामागुन्दम डिविजन के प्रबंधन से संबंध नियोक्तों और उनके कर्मचारों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण हैदराबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1-11-89 प्राप्त हुआ था।



S. O. 2980.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby publishes the following award of the Industrial Tribunal, Hyderabad as shown in the Annexure in the industrial dispute between the employers in relation to the management of M/s. Singareni Collieries Co. Ltd. Area-II, Ramagundam Division and their workmen, which was received by the Central Government on 1-11-1989.

## ANNEXURE

BEFORE THE INDUSTRIAL TRIBUNAL AT  
HYDERABAD

Industrial Dispute No. 72 of 1988  
BETWEEN

The Workmen of S.C. Co. Ltd., Area II, Ramagundam Division, P.O. Godavari Khani, Dist. Karimnagar, (A.P.).

AND

The Management of M/s. Singareni Collieries Co. Ltd., Area-II, Ramagundam Division, P.O. Godavarikhani, Dist. Karimnagar, (A.P.).

## APPEARANCES :

None—for the Workmen.

M/s. K. Srinivasa Murthy and G. Sudha, Advocates--  
for the Management.

## AWARD

The Government of India, Ministry of Labour by its Order No. 21012/110/87-D.II(B) dated 26-7-1988 referred the following dispute under Sections 10(1)(d) and (2A) of the Industrial Disputes Act, 1947 between the employers in relation to the management of M/s. Singareni Collieries Company Limited, Area-II, Ramagundam Division and their workmen to this Tribunal for adjudication :

“Whether the management of M/s. Singareni Collieries Co. Ltd., Area-II, Ramagundam Division, P.O. Godavarikhani, District Karimnagar, (A.P.), are justified in denying Cat. V, to Sri Regini Rajaiah, Tub-Repairing Mistry-Cat. IV, GDK. 8A Incline ? If not, to what relief the workmen concerned is entitled ?”

This reference was registered as Industrial Dispute No. 72 of 1988 and notices were issued to both the parties.

2. The notice was issued to the Secretary of the Workmen Union to file claim statement on or before 3-9-1988. Another notice was also issued to the Secretary of the Workmen Union to file claim statement on 4-10-1988. The workmen union received the notices but failed to make any appearance. Further no claim statement was filed by the Workmen-Union. Hence the Workmen Union was set ex parte.

3. The Management filed a counter and stated that for promotion from Category IV to Category V one has to complete five years of service in the lower category and sit for the Trade test for the higher cadre post, that the employee who gets highest marks will be promoted from lower category to higher category, that the said promotion policy is laid down by Clause 19 of the Agreement dt. 29-1-1981 and that the workman in question did not possess the eligibility to be considered for promotion and so the workman in question is not entitled to Category II.

4. The Management examined one M. Ramalingeshwar Rao working as Personnel Officer and spoke to the promotion policy and marked Item No. 19 of the Settlement dt. 29-1-1981 as Ex. M1. Further he deposed that the workmen in question did not possess the eligibility as per Ex. M-1 to be con-

sidered for promotion, and so the workman in question is not entitled for promotion.

5. There is no material to dispute the stand taken by the Management in the counter as well as in the evidence of M.W. 1.

6. In the light of the evidence of M.W. 1 it has to be held that the workmen in question is not entitled to promotion and the Management of M/s. Singareni Collieries Company Limited, Area II, Ramagundam Division, P.O. Godavarikhani, District Karimnagar, (A.P.) is justified in denying Cat. V to Sri Regini Rajaiah, Tub-Repairing Mistry Cat. IV, GDK 8A Incline.

Award is passed accordingly.

Dictated to the Stenographer, transcribed by him, corrected by me and given under my hand and the seal of this Tribunal, this the 17th day of October, 1989.

C. RAMI REDDY, Industrial Tribunal.

## Appendix of Evidence

Witnesses Examined  
for the Workmen :

NIL

Witnesses Examined  
for the Management :

M.W. 1 M. Ramalingeshwar Rao.

Documents marked for the Workmen :

NIL

Documents marked for the Management :

Ex M1—True Copy of the Memorandum of Settlement arrived at under Section 12(3) of the I.D. Act, 1947 between the Management of S.C. Co. Ltd., and their workmen, dt. 29-1-1981 at Hyderabad.

Ex. M2—Photostat copy of promotional channel of F&M personnel (Hammerman/Pick Sharpener/Blacksmith) Tub-repairing/Marking/Mazdoor to Blacksmith Grade-I(w) regarding.

[No. L. 21012/110/87-D.II(B)/IR(C.II)]

का. प्र. 2981.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचना में केन्द्रीय सरकार व मैसर्स सिंगरेनी कोल्लिरीज लि. की रावन्वारा खास कोल्लिरी के प्रबंधन से संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, जबलपुर के पंचाट को प्रकाशित करता है, जो केन्द्रीय सरकार को 31-10-89 को प्राप्त हुआ था।

S. O. 2981.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Government Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of the Rawanwara Khas Colliery of M/s. W.C. Ltd. and their workmen, which was received by the Central Government on 31-10-89.

## ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/LC(R)(192)/1987

## PARTIES :

Employers in relation to the management of Rawanwara Khas Colliery of W. C. Ltd., P. O. Rawanwara, District Chhindwara (M.P.) and their workman, Shri Shyama Charan, Pump Khalasi, represen-

ted through the General Secretary, Bharatiya Koyala Khadan Mazdoor Sangh (BMS), Chandametta, District Chhindwara (M. P.).

#### APPEARANCES :

For Union—Shri Rambagas Radwe.

For Management—Shri A. K. Shasi, Advocate.

INDUSTRY : Coal Mine DISTRICT : Chhindwara (M.P.)

#### AWARD

Dated : October 24th, 1989

The Government of India, Ministry of Labour, vide its Order No. L-21012/12/87-D.III(B) dated 9-9-1987, referred the following dispute to this Tribunal, for adjudication :—

“Whether the action of the Manager, Rawanwara Khas Colliery of W. C. Ltd., in denying wages for the suspension period from 4-3-1985 to 17-7-1985 with other benefits to Shri Shyamara Charan, Pump Khalasi is fair and justified? If not, to what relief the workman is entitled?”

2. In short the workman's claim was that he was employed as a Pump Khalasi since a long time without any adverse report. He was an active trade union worker and because of his trade union activities he was charge-sheeted and was suspended from 4-3-1985. After due enquiry he was allowed on duty from 17-7-1985 unconditionally. But he was not allowed the wages for the period from 4-3-1985 to 17-7-1985. He has, therefore, prayed this Court to hold that the action of the management in suspending him from 4-3-85 to 17-7-85 and also in not paying him the wages for the said period is quite unjustified. Therefore, he is entitled to full wages for the above period with other benefits accrued thereon.

3. Parties settled the claim before this Court in following terms :—

1. Management agreed that Sri Shyamacharan Pump Khalasi of Rawanwara Khas Colliery will be treated as suspended from 4-3-85 to 7-3-85 (4 days) only and from 8-3-85 to 17-7-1985 management will pay the subsistence allowance as per the Standing Orders applicable to Rawanwara Khas Colliery.

2. The settlement shall not be treated as precedent in any other case.

3. This settlement is full and final regarding demand of the suspension wages of Sri Shyamara Charan, Pump Khalasi for Rawanwara Khas Colliery.

4. The said compromise petition filed by the parties is verified before this Court by Shri Ram Bagas Radwe for the Union and Shri A. K. Shasi, Advocate and A. K. Singh on behalf of the management. The terms of settlement are just and lawful. I, therefore, record my award in terms of the settlement. No order as to costs.

V. N. SHUKLA, Presiding Officer

24-10-89  
[No. L-21012 (12)/87-D.III-B/IR (C-II)]

ब. अ. 2982.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार मैसर्स सैन्टन कोलकोल्ड लि. की रानवरा, खास कोलियरी के प्रबंधन से संबंधित विवादों और उनके कर्मचारियों के बीच, अनुसूचन में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिवास, जबलपुर के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 31-10-89 को प्राप्त हुआ था।

S.O. 2982.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the following award of the Central Gov-

ernment Industrial Tribunal, Jabalpur as shown in the Annexure in the industrial dispute between the employers in relation to the management of Rawanwara Khas Colliery of Western Coalfields Ltd. and their workmen, which was received by the Central Government on 31-10-1989.

#### ANNEXURE

BEFORE SHRI V. N. SHUKLA, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, JABALPUR (M.P.)

Case No. CGIT/(LC)(R)(84)/1988

#### PARTIES :

Employers in relation to the management of Rawanwara Khas Colliery of Western Coalfields Ltd., P.O. Dighawani, via Parasia, District Chhindwara (M.P.) and their workman Sri Krishna, DPR Rawanwara Khas Colliery, represented through the President, B.K.K.M.S. (BMS) P. O. Chandametta, District Chhindwara (M.P.).

#### APPEARANCES :

For Union—Shri Ram Bagas Radwe.

For Management—Shri A. K. Shasi, Advocate.

INDUSTRY : Coal Mine DISTRICT : Chhindwara (M.P.)

#### AWARD

Dated : October 24th, 1989

The Government of India, Ministry of Labour, vide its Order No. L-21012/93/87-D.III(B) dated 3-5-88/26-2 referred the following dispute to this Tribunal, for adjudication :—

“Whether the claim of the Bhartiya Koyla Khadan Mazdoor Sangh, P.O. Chandametta, Distt. Chhindwara (M.P.) for payment of wages and other benefits to Shri Krishna, DPR, Rawanwara Khas Colliery of WCL, for the period from 18-7-1986 to 22-7-87 is justified. If so, what relief is the said workman entitled?”

2. The Central Government by its order dated 3-5-1988/26-2 directed that the party raising the dispute shall file a statement of claim complete with relevant documents, list of reliance and witnesses with the Tribunal within fifteen days of the receipt of this order of reference. But neither any one appeared before this Tribunal nor any statement of claim filed on behalf of the workman union in spite of notice by this Tribunal. However, the management filed its statement on 1-11-1988. Subsequently on 12-4-1989 Counsel for the management filed a Memorandum of Settlement duly signed by S/Shri S. P. Singh, A. B. Chatterjee on behalf of the Union as also the workman, Shri Krishna and S/Shri S. B. Katiyar and C. L. Jaiswal on behalf of the management. The terms of the settlement are as under :—

(1) It was agreed by the management to pay 50 % of wages for the idle period from 18-7-85 to 28-7-87.

(2) The Union agrees to give up all other claim/benefits and accept the above terms as full and final settlement and shall not claim any other benefit in respect of the matter in dispute.

(3) This settlement shall not be treated as a precedent in any other case.

3. On 18-10-1989 Shri Ram Bagas, General Secretary of the Union verified the settlement and he also identified the signatures of Shri S. P. Singh who had put in his signatures as the then President of the Union. On behalf of the management S/Shri A. K. Shasi, Advocate and A. K. Singh verified the settlement and verified the signatures of S/Shri S. B. Katiyar and C. L. Jaiswal thereon.

4. I have gone through the terms of settlement which appear to be just and lawful. I, therefore, give my award

in terms of the aforementioned settlement and make no order as to costs.

V. N. SHUKLA, Presiding Officer

24-10-89

[No. L-21012/93/87-D. III B/IR (C-II)]

R. K. GUPTA, Desk Officer

नई दिल्ली, 3 नवम्बर, 1989

का. अ. 2983.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हिंदुस्तान जिंक लि. के अग्निगुंडाला लीड प्रोजेक्ट के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारियों के बीच, अनुबंध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिनियम, हैदराबाद के पञ्चायत को प्रसारित करती है, जो केन्द्रीय सरकार को 1-11-89 को प्राप्त हुआ था।

New Delhi, the 3rd November, 1989

S.O. 2983.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Hyderabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Agnigundala Lead Project of Hindustan Zinc Ltd. and their workmen, which was received by the Central Government on 1-11-1989.

#### ANNEXURE

#### BEFORE THE INDUSTRIAL TRIBUNAL AT HYDERABAD

Dated, 21st day of October, 1989  
Industrial Dispute No. 63 of 1987

#### BETWEEN :

The Workmen of Agnigundala Lead Project,  
Hindustan Zinc Ltd., Bandalamottu, Guntur,  
District (A.P.).

#### AND

The Management of Agnigundala Lead Project,  
Hindustan Zinc Limited, Bandalamottu,  
Guntur District, (A.P.).

#### APPEARANCES :

Sri P. C. Ramakrishnaiah, General Secretary,  
Hindustan Zinc Workers Union, Bandalamottu, for  
the Workmen.

M/s. Srinivasa Murthy & G. Sudha and A. Visalakshi,  
Advocates—for the Management.

#### AWARD

The Government of India, Ministry of Labour by its Order No. 5(5)/86-Con.II/D.III(B) dated 24-11-1987 referred the following dispute under Section 10(1)(d) and 2(A) of the Industrial Disputes Act, 1947 between the employer in relation to the management of Agnigundala Lead Project, Hindustan Zinc Limited, Bandalamottu and their Workmen to this Tribunal for adjudication :—

"Whether the action of the management Agnigundala Lead Project, Hindustan Zinc Ltd., Bandalamottu in not paying the Personnel Pay to Shri V. Balakondanna, Welder Maistry, Category VII at the rate of Rs. 34 per month as fixed to that category from November, 1983 is justified. If not, to what relief the said workman is entitled to?"

This reference is registered as Industrial Dispute No. 63 of 1987 and notices were issued to parties.

2. The Workmen-Union filed a claim statement contending as follows.—The Workmen of Hindustan Zinc Limited, Agnigundala Lead Project, Bandalamottu were entitled to

Personal pay in addition to Pay and Allowance in terms of para 3.1.4 of Memorandum of Settlement dated 5-12-1983 under Section 12(3) of Industrial Disputes Act arrived at between the Management of Hindustan Zinc Limited and Agnigundala Project Employees Union.

(a) In terms of the Settlement which was operated between 1-1-1983 and 31-12-1986 workmen of various categories are entitled to Personal Pay attached to the concerned Category. V. Balakondanna who was in Category VI as on 31-12-1982 was given Personal Pay of Rs. 24.00 per month from 1-1-1983. He was promoted to Category VII in November, 1983. Workers in Category VII are entitled to Personal Pay of Rs. 34.00 in terms of the Settlement referred above.

(b) The Management of Hindustan Zinc Limited, Agnigundala Project, Bandalamottu have however declined to pay Personal Pay @Rs. 34.00 and in fact continued to pay Rs. 24.00 as Personal Pay even after V. Balakondanna was promoted from Category VI to Category VII.

(c) Payment of Personal Pay at various rates was related to the Category of Workmen and not "individual workman" in terms of the Settlement referred above. Whenever workman's category is changed the personal pay applicable to the category to which the workman has been moved will have to be paid. Sri V. Balakondanna having been promoted from Category VI to Category VII should have been paid personal pay applicable to Category VII. The denial of Personal pay @Rs. 34 per month applicable to Category VII is arbitrary, illegal and unsustainable. Hence it is prayed that this Hon'ble Court to grant Personal Pay @Rs. 34.00 per month to Sri V. Balakondanna and other consequential benefits in terms of the Settlement dated 5-12-1983.

3. The Management filed the counter stating as follows—The interpretation given by the workmen with regard to Personal Pay is not correct interpretation. The Personal pay was given as an additional benefits to the employees in service as on 31-12-1982 with effect from 1-1-1983 but it is not the case that an employee whenever he gets promotion into higher category shall be paid Personal Pay in the higher category. Nowhere the Management agreed that the Settlement that whenever workman is promoted to higher category that category Personal Pay will be paid. As such the interpretation that whenever workman's category is changed, the personal pay applicable to the category to which the workman has been moved will have to be paid is not correct. The Management has implemented the Settlement dt. 5-12-1983 in toto, that in this view of the matter the reference is bad in law. The workman V. Balakondanna is not entitled for personal pay at increased pay after promotion from 1-1-1983 the effective date of Settlement which is applicable. Thus the workman V. Balakondanna is not entitled to Personal Pay of Rs. 34.00 or consequential benefits as claimed by him and as such the reference is liable to be rejected.

4. The point for consideration is (1) whether the Personal Pay as per the terms of Para 3.1.4 of Memorandum of Settlement dated 5-12-1983 related to the category of workmen and not individual workman or whether the said Personal Pay payable to the employees with effect from 1-1-1983 under the settlement dated 5-12-1983 remained un-altered, either on promotion or demotion? and (2) whether the workman V. Balakondanna is entitled to Personal Pay of Rs. 34.00 per month from November 1983 in view of his promotion to Category VII from Category VI?

5. The Workmen Union did not adduce any oral evidence but marked Exs. W1 to W3 by consent. On the side of the Management one V. A. Anna Rao working as Senior Administrative Officer is examined as M.W. 1 besides marking Exs. M1 to M18 which will be referred in the discussion.

6. Points 1 and 2—Since both the points are interconnected they are proposed to be disposed of together. The payment of Personal Pay is dealt in Para 3.1.4 of the Memorandum of Settlement dt. 5-12-1983, entered into between the Management on one hand and Agnigundala Lead Project Union on the other. The reference in question rests

upon the interpretation of the said terms of Settlement which is reproduced below for ready reference :

"In addition to one increment at the revised rates as mentioned in para 3.1.3 above, all the workers in Categories I, II and III as on 1-1-1983 and on the rolls of the Company as on 31-12-1982 will be given a personal pay of Rs. 15.00 per month w.e.f. 1-1-1983. Similarly, workers in Cat. IV, IVA, V & VI will be given Personal pay of Rs. 24.00 per month and workers in Cat. VII, VIII and IX Rs. 34.00 per month. This personal pay will be taken into consideration for all purposes except House Rent Allowance, House Rent Recovery and Underground/Crushing Allowance. Modalities of merging the above mentioned personal pay will be decided mutually."

The main contention advanced on behalf of the Workmen is that the terms of Settlement as referred to above does not provide anywhere that the Personal pay fixed under the terms of Settlement is unalterable during the period of Settlement, that the terms of Settlement provide for merging the Personal Pay for which modalities were to be decided by the parties concerned, that neither modalities were decided nor Personal Pay was merged with basic pay even after expiry of the Settlement period, that so long as merged modalities are not decided Personal Pay applicable to the Category concerned should be paid whenever the worker move from one category to another either by way of promotion or by way of reversion, that Personal Pay is really not personal in true sense as it is not given to any specific individual, that the Personal Pay was related to the category of workmen and not individual workman. It was nextly contended that Sri M. Venkateshwarlu was in Category VI as on 1-1-1983, but he was paid Personal Pay of Rs. 24.00 as per the terms of the Settlement dt. 5-12-1983, that he was demoted with effect from 23-7-1983 from Category VI to Category II by way of punishment, that on demotion to Category II the Management paid Personal Pay of Rs. 15.00 to Sri M. Venkateshwarlu as a Personal Pay which amount alone is payable to Category II employees as per the terms of Settlement dt. 31-12-1982, that Ex. W3 is the computerised pay slip of M. Venkateshwarlu for the month of November 1987, M. Venkateshwarlu was paid Personal Pay of Rs. 15.00 payable to Category II employees on demotion, that in the light of Ex. W3 the stand taken by the Management in regard to interpretation of agreement in question is not sustainable. However the learned counsel for the Management argued that the benefits of Personal Pay was given to the employees who are on the rolls of the Company on 31-12-1982, that it is one time payment i.e. implementation of scales and benefits of Personal allowance, that the benefits which is now sought for, is a recurring feature which was not intended under the Settlement, that due to a mistake the Personal Pay of M. Venkateshwarlu was altered from Rs. 24.00 to Rs. 15.00 per month on demotion from Category VI to Category II, that the same was rectified under Office Note dt. 30-10-1988 marked as Ex. M15 and his pay was raised to Rs. 24.00 as was drawn prior to demotion; that Ex. M16 is the photostat copy of the calculation sheet of arrears paid to M. Venkateshwarlu and that Ex. M17 photostat copy of the Pay Sheet containing payment of wages pertaining to M. Venkateshwarlu, and that Ex. M18 is the photostat copy of acknowledgement of M. Venkateshwarlu with regard to the salary and wages for the month of November 1988 wherein the Personal Pay is shown as Rs. 24.00. It was further pointed out that the Management issued a Circular Ext. M2 clarifying the position of the payment of Personal Pay that in paragraphs 1 to 4 of the Circular dt. 3-2-1984 marked as Ex. M2 it is clearly stated in Ex. M2 that the Personal Pay fixed on 1-1-1983 will continue to be same either on promotion or demotion and that Ex. M2 clearly fortifies the stand taken by the Management. It was further contended on behalf of the Management that after Ex. M1 Settlement that several employees have been promoted and that the Personal Pay of the promoted employees remained unaltered even after promotion that the Management filed promotion orders, Pay sheet of the employees before promotion, and the pay sheet of the employees after pro-

motion on respect of the four employees and marked them as Exs. M3 to M14 that Exs. M3 to M14 support the stand taken by the management.

7. For the reasons mentioned herein I am not inclined to agree with the stand taken by the Management in this regard. All the four employees relating to Exs. M3 to M14 were promoted subsequent to the filing of the written statement by the Management in the reference. Having taken a particular stand in the written statement, the Management cannot take a different stand in the payment of Personal pay to the employees who have been promoted subsequent to the filing of the written statement. Thus I am of the view that Exs. M3 to M14 are in no way helpful to the stand taken by the Management. So far as Circular Ex. M2 dt. 3-2-1984 is concerned, it is now stated by the Management witness that the said Circular was issued in consultation with the Union. However there is nothing in writing to show that the Union is a party to Ex. M2. It is admitted by the Management's witness that Clause 11.1.5 prohibits unilateral interpretation of the Agreement and that Clause 11.1.5 says that it is agreed that in case of any doubt or difficulty in the interpretation and the same may be resolved by the Management and the Union. As already observed, there is no documentary evidence to show that the Union is a signatory to the Circular marked as Ex. M2. In my view Ex. M2 is a self-serving Circular issued by the Management and it cannot have any binding effect on the workmen. Admittedly one M. Venkateshwarlu who was in Category VI as on 31-12-1982 was paid Personal Pay of Rs. 24.00 as per the terms of Settlement w.e.f. 1-1-1989. It is also admitted that he was demoted from Category VI to Category II by way of punishment on 23-7-1983 as seen from Ex. M15. In the light of the stand taken by the management on the interpretation of the terms of the agreement, the Personal Pay of M. Venkateshwarlu should have remained unaltered though he was demoted from Category VI to Category II. However it is seen that on demotion his Personal Pay was altered from Rs. 24.00 to Rs. 15.00 because he belonged to Category II on demotion and the terms of Settlement provided payment of Rs. 15.00 only as personal pay to Category II employees. Ex. W3 is the computerised pay slip of M. Venkateshwarlu showing the payment of Personal Pay of Rs. 15.00 only as an employee of Category II. In my view Ex. W3 clearly supports the stand taken by the workmen in order to find that the Personal Pay agreed to be paid under the settlement related to category of workmen but not individual workman. It is no doubt true that the Management rectified the said mistake under Ex. M15 and raised the Personal Pay of M. Venkateshwar Rao from Rs. 15.00 to Rs. 24.00 and paid the arrears as per Exs. M16 and M17. Admittedly the arrears were paid under the proceedings dated 30-10-1988 (Ex. M16), during the pendency of this dispute before this tribunal. The management has to necessarily issue the proceedings dated 30-10-1988, to support their stand in this case. Thus I am of the view that Exs. M16 and M17 cannot advance the case of the Management in this regard. The last contention advanced on behalf of the Management is that there is a settlement and there is no industrial dispute, that if a person is aggrieved that payment has been not made on the basis of the Settlement, the remedy available to the person is by way of an application under Section 33(C)(2) of the I.D. Act or by seeking reference under Section 33A of the I.D. Act and that the workman in question has not followed the said two procedures that the reference in question is bad in law. The learned counsel for the Management cited the decision of the Supreme Court reported in 1961 (1) (LLJ) page 244 and 247 (RAMANAGAR CANE & SUGAR CO. v. JATIN CHAKRAVARTHY), NEW INDIA MOTORS (P) LTD., v. K. T. MORIS, and BHAGRAKHAN COLLIFRIES (P) LTD., v. G. C. AGGARWAL, and TATA CHEMICALS v. WORKMEN, as an authority in the written arguments, to find that the Settlement entered into under the provisions of the Act is binding in all the workmen who were not only in service and all those who might be employed subsequent thereafter. In the present case the binding nature of the Settlement is not disputed. However the issue relates to the interpretation of the terms of the settlement as pointed out in the above discussions. I am of the view that the interpretation given by the Management in regard to the terms of settlement is

not sustainable. As contended by the learned counsel for the workmen, I am of the view that the Personal Pay mentioned in the Settlement relates to the category of workmen and not individual workman, that whenever workman's category is changed, the personal pay applicable to the category to which the workman has been moved will have to be fixed. If such a view is not taken, it amounts to discrimination. Thus I am of the view that since B. Balakondanna has been promoted from Category VI to VII the Management should have paid Personal Pay applicable to Cat. VII as claimed by V. Balakondanna. Thus I find on both the issues that the workman V. Balakondanna is entitled to Personal Pay of Rs. 34.00 from November 1983 as claimed in the reference.

7. In the light of the above the action of the Management of Agnigundala Lead Project Hindustan Zinc Limited, Bandalamottu in not paying the Personal Pay to Sri V. Balakondanna, Welder Maistry, Category VII at the rate of Rs. 34.00 per month as fixed to that category from November, 1983 is not justified and he is entitled to Special Pay of Rs. 34.00 from November, 1983.

Award is passed accordingly.

C. RAMI REDDY, Industrial Tribunal.

#### APPENDIX OF EVIDENCE

##### Witnesses Examined

for the Workmen :

Nil

##### Witness Examined

for the Management :

M.W1 A. V. Appa Rao.

##### Documents marked for the Workmen .

Ex. W1 By consent.—Photostat copy of the Order dt. 7-12-1983 issued by Superintendent of Mines with regard to revision of pay scales of workmen of Agnigundala Lead Project.

Ex. W2 By consent.—Photostat copy of the Memorandum of Settlement arrived at under Section 12(3) of the I.D. Act, 1947 before the Assistant Labour Commissioner (C) Vijayawada on 5-12-83 at Vijayawada.

Ex. W3 By consent.—Computerised Pay Slip of M. Venkateswarlu.

##### Documents marked for the Management .

Ex. M1 By consent.—Photostat copy of the Memorandum of Settlement arrived at under Section 12(3) of the I.D. Act, 1947 before the Assistant Labour Commissioner (C) Vijayawada on 5-12-83 at Vijayawada.

Ex. M2.—Photostat copy of the Circular No. 14(17)/83-Pers(95) Dt. 3-2-84 issued by Group General Manager (PERS) with regard to clarification of the points relating to implementation of long term settlement No. IV operative from 1-1-83 to 31-12-86.

Ex. M3.—Photostat copy of the promotion Order dt. 21-1-88 issued to B. Peda Kotaiah by the Sr. Administrative Officer, Hindustan Zinc Limited.

3285 GI/89-5.

Ex. M4.—Photostat copy of the Pay Sheet for the month of September, 1987 pertaining to B. Peda Kotaiah.

Ex. M5.—Photostat copy of the pay sheet of B. Peda Kotaiah for the month of October, 1987.

Ex. M6.—Photostat copy of the Promotion Order dt. 4-8-88 issued to K. Chinnappa by the Senior Administrative Officer, Hindustan Zinc Limited.

Ex. M7.—Photostat copy of the Pay Sheet of K. Chinnappa for the month of July, 1989.

Ex. M8.—Photostat Copy of the Pay Sheet of K. Chinnappa for the month of October, 1988.

Ex. M9.—Photostat copy of the promotion order dt. 30-8-88 issued to K. Sombi Reddy by the Senior Administrative Officer, Hindustan Zinc Limited.

Ex. M10.—Photostat copy of the Pay Sheet of K. Sambhi Reddy for the month of July, 1988.

Ex. M-11.—Photostat copy of the Pay Sheet of K. Sambhi Reddy for the month of October, 1988.

Ex. M12.—Photostat copy of the Promotion Order dt. 5-4-88 issued to N. Ravindranath by the Senior Administrative Officer, Hindustan Zinc Limited.

Ex. M-13.—Photostat copy of the Pay Sheet of N. Ravindranath for the month of January, 1988.

Ex. M14.—Photostat copy of the Pay Sheet of N. Ravindranath for the month of October, 1988.

Ex. M15.—Photostat copy of the Office Note of V. Murali Personnel Officer, dt. 30-10-88 with regard to personal pay of M. Venkateswarlu.

Ex. M16.—Photostat copy of the calculation sheet relating to M. Venkateswarlu.

Ex. M17.—Photostat copy of the pay sheet containing payment of wages to M. Venkateswarlu.

Ex. M18.—Photostat copy of the acknowledgement of M. Venkateswarlu with regard to salary and wages for the month of November, 1988.

[No. L-5(5)/86-Con. II/D. III (B)]

का. धा. 2984.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार ने. अश्विन एंड कंपनी, अरसोदिया के प्रबंधन के संबंध में निहित औद्योगिक विवाद में उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण अहमदाबाद के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को, 30-10-89 को प्राप्त हुआ था।

S.O. 2984.—In pursuance of Section 17 of the Industrial Disputes Act 1947 (14 of 1947) the Central Government hereby publishes the award of the Industrial Tribunal, Ahmedabad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of M/s. Ashwin & Company, Arsodia and their workmen, which was received by the Central Government on 30-10-89.

## ANNEXURE

BEFORE SHRI S. J. SHETH, PRESIDING OFFICER,  
AHMEDABAD

Ref. (ITC) No. 17 of 88

## ADJUDICATION

## BETWEEN

Messrs. Ashwin & Company, Arsodia

AND

The workmen employed under it.

In the matter of termination of Shri M. J. Patel, Ex-  
Store Keeper w.e.f. 25-1-1987.

## APPEARANCES :

Shri Rangwala, for the first party.

Shri Memon, for the second party.

## AWARD

The Govt. of India, Ministry of Labour by its Notification No. L-29012/20/88-D.III(B) dt. 26-7-88 has referred an Industrial dispute noted below, between M/s. Ashwin & Company, Arsodia (hereinafter referred to as 'Company and its workmen, to the Tribunal at Ahmedabad under the provisions of Section 10(1)(d) and sub-section 2(a) of Section 10 for adjudication. It has been ultimately referred to me. As per the schedule, following dispute has to be adjudicated. Whether the action of the management of M/s. Ashwin & Company, Arsodia, in terminating the services of Shri M. J. Patel, Ex-Store-keeper with effect from 25-1-1987 is legal and justified? If not, what relief the workman is entitled to.

2. The concerned workman has filed his statement of claim at Ex. 6. According to him he was working as a store-keeper at the mines of the Company at Arsodia from 1-8-1964. He was paid a total monthly salary of Rs. 400 p.m. but was not given any benefit of leave. The salary paid to him was less than the minimum wages payable under the Minimum Wages Act, and he had therefore demanded leave benefits and pay. He was therefore, dismissed from service from 25-1-1987. He approached the authorities but in vain. He therefore made an application to the Conciliation Officer but there also the Company refused to reinstate him and made false allegations against him of mismanagement and misappropriation.

3. The Company has filed its written statement at Ex. 10. It has raised a preliminary objection to the effect that as it has not terminated the services of Shri M. J. Patel, the concerned workman, but he has himself abandoned the services, the reference as framed is incompetent and hence not tenable at law. It denied all the allegations made against it with respect to leave benefits and less pay. It alleged that Shri Patel had indulged himself in many mal practices like manipulations of attendance registers, taking away mining equipments to this form, attending to his form during duty hours and taking work from the mine workers in his form and when he was asked to give explanation for these mal

practices, he had stopped attending to his duties, and stated that it had never terminated his services.

4. On an application made by the learned advocate of the Company the following issue has been heard as a preliminary issue whether the reference is competent ?

5. The learned advocate of the Company Shri Rangwala has urged before me that though in fact the Company has never terminated the service of Shri Patel the terms of reference clearly indicate that there has been termination and Tribunal has only to decide whether the termination is legal or valid. In the circumstances even if the Tribunal comes to the conclusion that this is a clear case of abandonment of the services by the concerned workman it cannot decide that fact. As per the terms of the reference the tribunal has to proceed on the basis that the services of Shri Patel have been terminated and as such the reference is incompetent. For this proposition he has relied on a decision of Maharashtra High Court, published in 1985 (I)LLJ at page 480 in the case of Sitaram Vishnu Shrodkar v/s. Administrator, Govt. of Goa and others. In that case almost the same question had arisen. There also it was the case of the union that the management had terminated the services of the workmen, while it was the case of the management that the workman, had absented from duty and abandoned the job. The Government had made a reference as if the services of the workman were terminated. That reference was almost in the same terms as the reference in our case. Their Lordship in that case observed as follows :

"The Tribunal could not travel beyond the reference and decide the question whether the respondent No. 4 had abandoned his services. That the petitioner had terminated the services of the respondent No. 4 was an act fastened on the petitioner by this reference and the only question left open for decision was whether the termination was legal and proper. In this view of the matter, in our opinion, the reference itself was bad and has to be quashed."

The Bombay High Court very strongly relied for the above view on the decision of the full bench of the Delhi High Court in M/s. India Tourism Dev. Corporation, New Delhi, v/s. Delhi Administration and Others (1982-Lab IC p. 1309). Before the Delhi High Court also almost same type of question had arisen. There, the dispute was whether there was lock out or closure and the reference was termed as follows:—

"Whether the workman as shown in Annexure 'A' are entitled to wages for a period of lockout with effect from 1st January, 1981 and if so, what directions are necessary in this respect ?"

The Delhi High Court in that case observed as follows :—

"It is settled law that the jurisdiction of the Labour Court/Industrial Tribunal in industrial dispute is limited to the points specifically referred for its adjudication and the matters incidental thereto and it is not permissible to go beyond the terms of the reference.....It exercises such jurisdiction and power only upon and under order of reference limited to its terms. It cannot travel beyond the terms of re-

ference except for ancillary matters. Making of an order of reference is undoubtedly an administrative function, but even that is amenable to judicial review in the proceedings under Art. 226 under certain facts and circumstances. An order of reference is open to judicial review if it is shown that the appropriate Government has not applied its mind to the material before it or has not taken into consideration certain vital facts which it ought to have taken into consideration..... We are of the view that the existence of lock-out itself being the real dispute between the management and its workmen, the term of reference proceeds on the assumption that there was lock-out with effect from January 1, 1981. There is a very thin line of distinction between closure and a lock out. The real dispute between the parties was whether there was lock out with effect from January 1, 1981. There is a very thin line of distinction between closure and a lock-out. The real dispute between the parties was whether there was at all a lock out or whether there was violence by the workmen and for that reason there was suspension of the working of the restaurant with effect from January 2, 1981 and whether the closure of the restaurant from February, 18, 1981 was proper and for that reason the termination of the services of the workmen was justified and legal. The appropriate Government has failed to take into consideration the entire set of circumstances brought out by the management in the two notices displayed and the replies furnished to the Delhi Administration to come to the conclusion whether it was lock out or closure. Whether in fact there was a closure or lock out is the real dispute which can more appropriately be determined in industrial adjudication. The Industrial Tribunal cannot go into that question as the real dispute has not been made the subject matter of the order of reference."

In the case before me almost the same type of question has arisen. As stated above, the case of the workman is that his services have been terminated while the case of the management is that as it had asked the workman to give his explanation for the alleged mis-management and mis-appropriation, he had himself stopped attending to his duties. The real dispute between the parties therefore is whether the services of the worker has been terminated or whether the workman has abandoned the services. The reference has however taken for granted that the service of the workmen has been terminated and the only question kept open is whether that termination is legal or not? In the circumstances in my view the learned advocate of the Company Shri Rangwala is absolutely right in contending that the reference is incompetent.

6. The learned advocate of the workman Shri Memon has very strongly urged that this is a clear case of termination as the management had refused to reinstate the workman during conciliation proceedings and as such it cannot be said

that the reference is incompetent. Now it is true that before the conciliation officer the Company refused to reinstate the workmen, but if we take into consideration the whole case of the Company it would be difficult to say that the Company had terminated the services of the concerned workman. The Company had submitted before the conciliator in the written statement as follows :—

"We have therefore to state that the services of Shri Patel were not terminated by us, but he himself stayed away and remained absent from the duties, as stated above and therefore, it is not possible for us to take him back in the services. His demand for reinstatement cannot be possible. Since Shri Patel did not co-operate in making enquiries we still reserve our right to make inquiries and call for explanations from him."

7. From the above it is quite clear that according to the Company it had not terminated the services of the concerned workman and it was still prepared to institute enquiry against him for his alleged misconduct if the workman co-operates. In the circumstances it cannot be said that the Company had already terminated the services of the workman only because it had refused to reinstate him before the conciliation officer. In view of the facts the Tribunal may come to a conclusion after considering all the facts and circumstances of the case that this is a case of termination and not abandonment but, merely for that it cannot be said at this stage that the reference is competent. As per the terms of the reference the Tribunal has no jurisdiction to consider whether the case is of abandonment or not. Even in the case before the Bombay High Court (Supra) the Industrial Tribunal had come to a conclusion that the services of the concerned workmen were terminated illegally. In spite of that the High Court had held that the reference was incompetent as it was taken for granted that there was termination of the services of the concerned workman without considering the contention of the management and had quashed the Award given by the Tribunal, Agreeing entirely with the view of the Bombay High Court. Therefore, I hold that in this case also the reference is incompetent. No doubt this would cause some embarrassment to the poor workman but I am helpless. It would be for the Government after applying its mind considering the facts and circumstances of the case and position in law.

In view of the above discussion I pass the following order.

#### ORDER

The reference is rejected. No order as to cost.

SECRETARY,

Ahmedabad, Dt. 5-10-89.

S. J. SETH, Industrial Tribunal.

5-10-89

[No. L-29012/20/88-DIII(B)]

V. K. SHARMA, Desk Officer

नई दिल्ली, 6 नवम्बर, 1989

का.प्र. 2985:—ओड़ीसा राज्य सरकार ने कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 4 के खण्ड (घ) के अनुसरण में श्री कल्याण राय के स्थान पर श्री प्रणब कुमार डे कमीशनर एवं सचिव उड़ीसा सरकार अम एवं रोजगार विभाग को कर्मचारी राज्य बीमा निगम में उस राज्य का प्रतिनिधित्व करने के लिए नाम निर्दिष्ट किया है;

प्रतः अब केन्द्रीय सरकार कर्मचारी राज्य बीमा अधिनियम 1948 (1948 का 34) की धारा 4 के अनुसरण में भारत सरकार के अम मंत्रालय को अधिवृत्त संख्या का.प्र. 545 (अ) दिनांक 25 जुलाई 1985 में निम्नलिखित संशोधन करती है अर्थात्—

उक्त अधिवृत्त में “(राज्य सरकार द्वारा धारा 4 के खण्ड (घ) के अर्थान नामनिर्दिष्ट)” शीर्षक के नीचे मद् 21 के सामने की प्रविष्टि स्थान पर निम्नलिखित प्रविष्टि रखी जाएगी अर्थात्—

श्री प्रणब कुमार डे  
कमीशनर एवं सचिव  
उड़ीसा सरकार अम एवं रोजगार विभाग,  
भुवनेश्वर।

[संख्या यू-16012/4/86-एस.एस-1]

New Delhi, the 6th November, 1989.

S. O. 2985.—Whereas the State Government of Orissa has, in pursuance of clause (d) of section 4 of the Employees' State Insurance Act, 1948 (34 of 1948) nominated Shri Pranab Kumar Dey, Commissioner-cum-Secretary to the Government of Orissa Labour and Employment Department to represent that State on the Employees' State Insurance Corporation, in place of Shri Kalyan Ray;

Now, therefore, in pursuance of section 4 of the Employees' State Insurance Act, 1948 (34 of 1948), the Central Government hereby makes the following amendment in the notification of the Government of India in the Ministry of Labour S. O. No. 545 (E), dated the 25th July, 1985, namely :—

In the said notification, under the heading “[Nominated by the State Government under clause (d) of section 4]”, for the entry against Serial Number 21 the following entry shall be substituted, namely :—

Shri Pranab Kumar Dey,  
Commissioner-cum-Secretary to the  
Government of Orissa,  
Labour and Employment Department,  
Bhubaneswar.

[No. U-16012/4/86-SS.1]

नई दिल्ली, 7 नवम्बर, 1989

का. प्र. 2986:—कर्मचारी राज्य बीमा अधिनियम 1948 (1948 का 34) की धारा 1 की उपधारा (3) द्वारा प्रवृत्त शक्तियों का प्रयोग करते हुए केन्द्रीय सरकार एतद्वारा 14-11-89 को उम तारीख के रूप में नियत करती है जिसको उक्त अधिनियम के अध्याय 4 (धारा 44 और 45 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) और अध्याय 5 और 6 (धारा 76 की उपधारा (1) और धारा 77, 78 79 और 81 के सिवाय जो पहले ही प्रवृत्त की जा चुकी है) के उपबन्ध पंजाब राज्य के निम्नलिखित क्षेत्र में प्रवृत्त होंगे अर्थात्—

क्र.स.	ग्राम का नाम	हद बस्त नं.
1.	गोइंदवाल साहिब	338
2.	खाख	341
3.	मलानी	340
4.	हंसावाला	337
5.	अकबरपुर	339
6.	झांदर मोहनपुर खान	342
7.	धुन्दान	343
8.	मानक देके	344

[सं. एस-38013/27/89 एसएस-1]

New Delhi, the 7th November, 1989

S.O. 2986:—In exercise of the powers conferred by sub-section (3) of section 1 of the Employees State Insurance Act, 1948 (34 of 1948), the Central Government hereby appoints the 14th November, 1989 as the date on which provisions of Chapter IV (except sections 44 and 45 which have already been brought into force) and Chapters V and VI (except sub-section (1) of section 76 and 77, 78, 79 and 81 which have already been brought in to force) of the said Act shall come into force in the following areas in the State of Punjab namely:

S.No.	Name of Village	Had Best No.
1.	Golindwal Sahib	338
2.	Khakh	341
3.	Malani	340
4.	Hansawala	337
5.	Akbarpur	339
6.	Jhandar Mohanpur Khan	342
7.	Dhundani	343
8.	Manak Deke	344

[No. S-38013/27/89-SS.I]



का. प्रा. 2987.—केन्द्रीय सरकार, कर्मचारी राज्य बीमा अधिनियम, 1948 (1948 का 34) की धारा 91क के साथ पठित धारा 88 द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए और भारत सरकार अधिनियम संख्या 8 सितम्बर, 87 की अधिसूचना संख्या 2557 के अन्तर्गत उक्त अधिनियम प्रवर्तन से पूर्व भारत पेट्रोलियम कारपोरेशन लिमिटेड में नियुक्त नियमित कर्मचारियों को प्रथम अक्टूबर, 87 से 30 सितम्बर, 91 तक की जिसमें यह दिनांक भी सम्मिलित है की और अवधि के लिए छूट प्रदान करती है।

1. पूर्वोक्त छूट की शर्तें निम्नलिखित हैं, अर्थात् :—

- (1) पूर्वोक्त कारखाना, जिसमें कर्मचारी नियोजित है, एक रजिस्टर रखेगा, जिसमें छूट प्राप्त कर्मचारियों के नाम और पदामिधान दिखाए जाएंगे,
- (2) इस छूट के होते हुए भी, कर्मचारी उक्त अधिनियम के अधीन ऐसी प्रवृत्तिपूर्ण प्राप्त करते रहेंगे, जिनकी पाने के लिए वे इस अधिसूचना द्वारा प्रवृत्त होने की तारीख से पूर्व संरक्षित अभिदायों के आधार पर हकदार हो जाते,
- (3) छूट प्राप्त अवधि के लिए यदि कोई अभिदाय पहले ही किए जा चुके हों तो वे वापस नहीं किए जाएंगे,
- (4) उक्त कारखाने का नियोजक, उस अवधि की अवधि जिसके दौरान उस कारखाने पर उक्त अधिनियम प्रवर्तमान था (जिसे इसमें इसके पश्चात् "उक्त अवधि" कहा गया है), ऐसी विवरणियाँ ऐसे प्राप्ति में और ऐसी विशिष्टियों सहित देगा जो कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 के अधीन उक्त अवधि की अवधि वेसी थी,
- (5) निम्न द्वारा उक्त अधिनियम की धारा 45 की उपधारा (1) के अधीन नियुक्त किया गया कोई निरीक्षक, या निम्न का इस निमित्त प्राधिकृत कोई अन्य पदधारी :—
  - (i) धारा 44 की उपधारा (1) के अधीन, उक्त अवधि की अवधि की गई किसी विवरणों की विशिष्टियों को सत्यापित करने के प्रयोजनार्थ,
  - (ii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी राज्य बीमा (साधारण) विनियम, 1950 द्वारा मध्या प्रवेक्षित रजिस्टर और अभिलेख उक्त अवधि के लिए रखे गये थे या नहीं: या
  - (iii) यह अभिनिश्चित करने के प्रयोजनार्थ कि कर्मचारी, नियोजक द्वारा दिये गए उन कार्यों को, जिसके प्रतिकूल स्वरूप इस अधिसूचना के अधीन छूट दी जा रही है, तब से और वस्तु रूप में पाने का हकदार बना हुआ है या नहीं, या
  - (iv) यह अभिनिश्चित करने के प्रयोजनार्थ कि उस अवधि के दौरान, जब उक्त कारखाने के संबंध में अधिनियम के उपबन्ध प्रवृत्त थे, ऐसे किन्हीं उपबन्धों का अनुपालन किया गया था या नहीं,

निम्नलिखित कार्य करने के लिए सशक्त होगा :—

- (क) प्रधान या अभ्यवहित नियोजक से अपेक्षा करने कि वह उसे ऐसी जानकारी दे जिसे उपरोक्त निरीक्षक या अन्य पदधारी आवश्यक समझता है,
- (ख) ऐसे प्रधान या अभ्यवहित नियोजक के अधिभोगाधीन किसी कारखाने, स्थापन, कार्यालय या अन्य परिसर में किसी भी उचित समय पर प्रवेश करना और उसके प्रभारी से यह अपेक्षा करना कि वह व्यक्तियों के नियोजन और मजदूरों के संदाय से संबंधित ऐसे लेखा, बहिया और अन्य दस्तावेज, ऐसे निरीक्षक या अन्य पदधारी के समक्ष प्रस्तुत करे और उनकी परीक्षा करने दे, या उन्हें ऐसी जानकारी दे, जिसे वे आवश्यक समझते हैं, या
- (ग) प्रधान या अभ्यवहित नियोजक की, उसके अधिकारी या सेवक की, या ऐसे किसी व्यक्ति की जो ऐसे कारखाने, स्थापन, कार्यालय, या अन्य परिसर में पाया जाए, या ऐसे किसी व्यक्ति की जिसके बारे में उक्त निरीक्षक या अन्य पदधारी के पास यह विश्वास करने का सुविशुद्ध कारण है कि वह कर्मचारी है, परीक्षा करना, या
- (घ) ऐसे कारखाने, स्थापन कार्यालय या अन्य परिसर में रखे गए किसी रजिस्टर, लेखाबही या अन्य दस्तावेज की नकल तैयार करना या उसके उद्धरण लेना।

प्रतिष्ठानों की सूची : भारत पेट्रोलियम कॉरपोरेशन लिमिटेड

क्र.सं.	राज्य/केन्द्र	शासित प्रवेश का नाम	क्षेत्र का नाम	फैक्टरी/प्रतिष्ठान का नाम
1	2	3	4	
1.	आंध्र प्रदेश	सिकंदराबाद		डिविलजल ऑफिस, 45 ए, सरोजनी बेबी रोड, पोस्ट बॉक्स संख्या 1511, सिकंदराबाद-500003
2.	"	विशाखापट्टनम		विशाख डिस्पैच यूनिट मलकापुरम पी. ओ. विशाखापट्टनम-530011
3.	"	गन्नावरम		एविएशन सर्विस स्टेशन गन्नावरम एरोड्रम, बेकॉन फैक्टरी एस. पी. ओ. 521102
4.	"	निजामाबाद		निजामाबाद डिपो निजामाबाद-503003
5.	"	तडा		तडा डिपो ओ. एन. टी. रोड तडा-524101
6.	"	वारंगल		वारंगल डिपो गुड्स योड रोड वारंगल-506002

1	2	3	4
7.	झाँझ प्रवेश	निडावाकोल	निडावाकोल डिपो निडावाकोल-534301
8.	"	ताडेपल्ली	ताडेपल्ली डिपो द्वारा एच पी. सी. एल. डिपो ताडेपल्ली-522501 जिला-गुंटूर
9.	"	सनतनगर	सनतनगर डिपो द्वारा एच पी सी एल डिपो-64-ए, सनतनगर
10.	"	रेणीगुंटा	तिरुपती एविग्रान सर्विस स्टेशन रेणीगुंटा-517520 चित्तोड जिला-(झाँझप्रदेश)
11.	"	गुंतकल	गुंतकल डिपो द्वारा एच पी सी एल अमूररोड गुंतकल
12.	"	विशाख	मुम्बई डिपो विशाख-530011
13.	"	हैदराबाद	हैदराबाद एविग्रान सर्विस स्टेशन हैदराबाद
14.	"	कडप्पा	कडप्पा डिपो द्वारा एच पी सी एल डिपो कडप्पा-516001
15.	बिहार	पटना	पटना डिबिजनल ऑफिस एग्रीकल्चर रोड, पो. ऑ. बॉक्स सं. 20 पटना-800001
16.	"	बेगुसराय	बरीली डिस्ट्रिक्ट यूनिट बरीली ऑफिस रिकार्डिंग जिला बेगुसराय पिनकोड-851114
17.	"	धनबाद	धनबाद डिपो धनबाद बाजार पी. ओ. बॉक्स सं. 36 पो. ओ. धनबाद पिन कोड-826001
18.	"	राँची	राँची डिपो स्टेशन रोड, पी. ओ. बुटिया राँची-834001
19.	"	टाटानगर	टाटानगर डिपो बर्मा स्ट्रॉन्ग, गुड्स रोड रोड पी. ओ. टाटानगर जिला-सिगभूम पिन कोड-831001
20.	"	गरहरा	गरहरा डिपो पी. ओ. गरहरा-851126 जिला-बेगुसराय, बिहार
21.	बिहार	जमशेदपुर	जमशेदपुर डिबिजनल ऑफिस हिंदुस्तान बिस्किट (हूस्ती मंजिल) मेन रोड, बिस्तुपुर पी. ओ. बॉक्स सं. 71 जमशेदपुर-831001
22.	"	कटिहार	कटिहार डिपो पोस्ट बॉक्स सं. 10 कटिहार-854105
23.	गोवा	वास्को-दि-गामा	वास्को डिस्ट्रिक्ट यूनिट वास्को-दि-गामा (गोवा) पिनकोड-403802

1	2	3	4
24.	गोवा	पणजी (गोवा)	गोवा डिप्टिजल ऑफिस "ईशान" डॉ. पिसुरनेकर रोड पणजी (गोवा)-403001
25.	गुजरात	गांधीधाम	कांडला इन्स्टेशन पी. बी. सं. 33, पोस्ट गांधीधाम, गुजरात
26.	"	अहमदाबाद	अहमदाबाद डिप्टिजल ऑफिस मिसन रोड भद्रा, पी. ओ. बॉक्स सं. 52, अहमदाबाद-380001
27.	"	बड़ौदा	कोयाली डिस्ट्रीक्ट यूनिट, जवाहर नगर, जिला बड़ौदा पिन कोड-391321
28.	"	अहमदाबाद	भाबरमती डिस्ट्रीक्ट यूनिट, साबरमती इन्स्टेशन, अहमदाबाद-380019
29.	"	भावनगर	भावनगर एविएशन सर्विस स्टेशन सिविल एराड्रोम, भावनगर
30.	"	भुज	भुज एविएशन सर्विस स्टेशन पी. बॉक्स सं. 29, भुज-370001 गुजरात
31.	गुजरात	सूरत	सूरत डिपो सहारा गेट के बाहर, सूरत-395003 गुजरात
32.	"	अहमदाबाद	अहमदाबाद एविएशन सर्विस स्टेशन, अहमदाबाद
33.	हरियाणा	हिसार	हिसार एल जी बॉटलिंग प्लांट ग्रनसु रोड विलेज विल, हिसार हरियाणा
34.	"	असौदी	असौदी एल पी जी बॉटलिंग प्लांट विलेज पियाला, तहसील बल्लभगढ़ पी. ओ. असौदी, जिला फरीदाबाद
35.	"	सिरसा	सिरसा एविएशन सर्विस स्टेशन, बी. पी. आई. सेक्शन, सिरसा-125055
36.	"	हिसार	हिसार डिपो रेलवे स्टेशन के पास, हिसार-125001
37.	जम्मू एण्ड कश्मीर	श्रीनगर	श्रीनगर डिपो, द्वारा एच पी सी एस, न्यू एयरपोर्ट रोड, श्रीनगर-190014
38.	"	जम्मू ताबी	सेल्स ऑफिस, 168/ए. बी. गांधीनगर, जम्मू ताबी-180004

क्रम सं.	राज्य/क्षेत्र शासित प्रदेश का नाम	क्षेत्र का नाम	पैकटरी/प्रतिष्ठान का नाम
39.	जम्मू एण्ड कश्मीर	जम्मू तबी	जम्मू डिपो रेलवे स्टेशन के पास, जम्मू तबी
40.	कर्नाटक	बेंगलोर	डिविजनल ऑफिस "वि लॉरेन्स", 2-सी, रेसिडेन्सी रोड, पी. डी. सं. 2575, बेंगलोर-560025
41.	"	"	बेंगलोर इन्स्टेशन बनसबाडी मार्ग सेना नगर, पी. डी. संख्या 3305, बेंगलोर-560033
42.	"	मैसूर	मैसूर डिपो मैसूर-570021
43.	"	मैंगलोर	मैंगलोर डिपो द्वारा आई ओ सी इन्स्टेशन पनांबूर, मैंगलोर-575010
44.	"	रायचूर	रायचूर डिपो रायचूर-584101
45.	"	मैंगलोर	मैंगलोर एन पी जी वॉटलिंग प्लॉट बैकमपट्टी पी. ओ., न्यू मैंगलोर-575011
46.	"	बेंगलोर	बेंगलोर एमिग्रेशन सर्विस स्टेशन, एन ए एल (इन्स्पेक्ट्री सी) के पास, केपपूरा बिलेज, सेमसूर पी. ओ. बेंगलोर-560037
47.	"	हुबली	हुबली डिपो, सादीब लेख, हुबली
48.	केरला	कोचिन (एर्नाकुलम)	कोचिन डिविजनल ऑफिस, पी. डी. सं. 2622, एर्नाकुलम, कोचिन-682031
49.	"	"	एर्नाकुलम इन्स्टेशन पी. डी. सं. 2615 एर्नाकुलम-682031
50.	"	कन्नानोर	कन्नानोर डिपो कन्नानोर-670001
51.	"	कोचिन	कोचिन डिस्ट्रिक्ट यूनिट द्वारा आई ओ सी अवन नगर, कोचिन-682302
52.	"	त्रिवेंद्रम	त्रिवेंद्रम एन पी जी वॉटलिंग प्लॉट काझाकुट्टम, त्रिवेंद्रम-695382
53.	"	"	त्रिवेंद्रम डिपो, कोच्चुवेली ट्रिनिटीम, त्रिवेंद्रम-695021
54.	"	कोचिन	कोचिन इन्स्टेशन कॉम्प्लेक्स प्रोजेक्ट, 31, 1127-ए, चित्तिल्ली-पी. ओ., पी. डी. सं. 11, कोचिन-682019
55.	महाराष्ट्र	बेबई	आध्यक्ष कार्यालय, शास्त्र भवन, 4 एण्ड 6 करीनाय रोड, बेलाई इस्टेट बेबई-400038

क्रम सं.	राज्य/क्षेत्र शामिल प्रवेश का नाम	क्षेत्र का नाम	फैक्टरी/प्रतिष्ठान का नाम
56.	महाराष्ट्र	बंबई	रिफ़ाइनिंग डिपॉजिट, माहूल, बंबई-400074
57.	"	"	बंबई एरिया ऑफिस, भारत भवन, 4 एण्ड 6 करीमभाय रोड, बेलारि इस्टेट बंबई-400038
58.	"	"	"ई" एण्ड "एफ" मेकर टायर्स, 12 वीं मंजिल, कफ परंज, बंबई-400005
59.	"	"	बंबई डिपॉजिट ऑफिस, "ई" एण्ड "एफ" मेकर टायर्स, 12वीं मंजिल कफ परंज, बंबई-400005
60.	"	"	एरिया एल बी जी बंबई, उद्योग भवन, पहली मंजिल, वेसमेट बेलारि इस्टेट, बंबई-400038
61.	"	"	एक्विपेशन सब्सिड स्टेशन, सांताक्रुज एरोड्रोम (बोमबेस्टिक) सांताक्रुज, बंबई-400057
62.	"	"	भारत पेट्रोलियम ट्रेनिंग सेंटर, ड्रामवे हाऊस, जुहू, बंबई-400054
63.	"	"	मरीन प्रोड्यूस टर्मिनल, बूचर भायलेण्ड, बंबई
64.	"	"	शिवडी इन्स्टलेशन, गिवाडी, बंबई-400015
65.	"	"	शिवडी "के" इन्स्टलेशन शिवडी, बंबई-400015
66.	"	"	वाडीलुन इन्स्टलेशन, मैनेट रोड, वाडी.बंबर, बंबई-400009
67.	"	वाशी	वाशी डिस्ट्रिक्ट यूनिट, वाशी
68.	"	अकोला	अकोला डिपो, रेलवे स्टेशन के पास, अकोला (एम. एस.), पिन कोड-444501
69.	"	मनमाड	मनमाड डिपो, पी. प्रो. बॉक्स सं. 6, मनमाड-423103
70.	"	नागपुर	नागपुर डिपो, कुले मोर्सेट के सामने, नागपुर-440018
71.	"	सांगली	मिरज डिपो, चन्वन वाडी, मिरज, सांगली जिला पिन कोड-406410

क्रम सं.	राज्य/केन्द्रशासित प्रदेश का नाम	क्षेत्र का नाम	फैक्टरी/प्रतिष्ठान का नाम
72.	महाराष्ट्र	सोलापुर	सोलापुर डिपो, पी.ओ. बॉक्स सं. 2 सोलापुर-413001
73.	"	बड़नेरा	बड़नेरा डिपो, द्वारा आई सी सी डिपो, विजय मिल्स के पीछे बड़नेरा, जिला धर्मरावसी, पिन कोड-444701
74.	"	पूना	सोनी डिस्पेंच यूनिट, द्वारा एच पी सी एल इन्स्ट्रुमेंशन, लोनी पूना-जिला
75.	"	रायगड	उरण एल पी जी फिलिंग प्लांट, जिला रायगड, महाराष्ट्र-400702
76.	"	जलगांव	जलगांव एल पी जी फिलिंग प्लांट, पी-27, एम आई सी सी, न्यू इंडस्ट्रियल एरिया, पी.ओ. संख्या 8, जलगांव 425003 महाराष्ट्र
77.	"	सोलापुर	सोलापुर एल पी जी फिलिंग प्लांट, बिचोली विलेज, माहोल तालुका, सोलापुर-413006, महाराष्ट्र
78.	"	बंबई	ट्रांवे डिस्पेंच यूनिट रिफाइनरी ग्राउंड, माहूल, बंबई-400074
79.	"	नागपुर	नागपुर डिविजनल ऑफिस "कनोरिया हाउस" पाम रोड, पी.ओ. बॉक्स सं. 17, नागपुर-440001
80.	"	पूना	पूना डिविजनल ऑफिस शाहजानब कॉम्प्लेक्स, 2416, जनरल थिमथया रोड, पी.ओ. बॉक्स सं. 61, पूना-411001
81.	मध्य प्रदेश	भोपाल	भोपाल डिविजनल ऑफिस, बी/2, बी. डी. ए. कानोनी, नगर निगम रेस्ट हाऊस के सामने, लिक रोड, सं. 3 के पास, गिवाजी नगर, भोपाल-412016
82.	"	ग्वालियर	ग्वालियर एक्विपमेंट सर्विस स्टेशन, सी. डी. सं. 9, ग्वालियर-474002
83.	"	ग्वालियर	ग्वालियर डिपो, रेलवे स्टेशन के पास, पी. डी. सं. 9, ग्वालियर-474002
84.	"	हंदौर	हंदौर डिपो 26, पार्क रोड, हंदौर-452003
85.	"	खंडवा	खंडवा डिपो खंडवा-450051-(म.प्र.)

क्रम सं.	राज्य/केंद्रशासित प्रदेश का नाम	क्षेत्र का नाम	फैक्टरी/प्रतिष्ठान का नाम
86.	मध्य प्रदेश	जबलपुर	जबलपुर डिपो साऊथ सिविल लाइन्स, जबलपुर-402001
87.	"	सतना	सतना डिपो सतना-485001
88.	"	जबलपुर	भिटौनी एन पी जॉ फिलिंग प्लांट साइट, पी. सी. ग्राहपुरा, एन. एच. 12 जिला-जबलपुर-483119
89.	"	रायपुर	रायपुर डिपो तेलघनी साका पी. सी. रायपुर-492001
97.	"	"	रायपुर एविएशन स्टेशन रायपुर
91.	"	भिलाई (दुर्ग)	भिलाई डिपो बिजनी नगर पी. सी. भिलाई जिला दुर्ग-490003
92.	"	रतलाम	रतलाम डिपो द्वारा-एच पी सी डिपो रतलाम-457001
93.	नयी दिल्ली	नयी दिल्ली	दिल्ली एरिया ऑफिस, ई. सी. ई. हाउस, पी. बॉक्स सं. 7, कॅनाट सर्कस, नयी दिल्ली-110001
94.	"	"	दिल्ली डिविजनल कार्यालय जी-7, लक्ष्मी बिल्डिंग, दूसरी और तीसरी मंजिल, पी. बॉक्स सं. 396, नयी दिल्ली-110051
95.	"	"	प्रोजेक्ट ऑफिस, 88 हंसालय, 15, बाराबंभा रोड, नई दिल्ली-110001
96.	"	"	शकूरबस्ती इन्स्टेशन शकूरबस्ती, नयी दिल्ली
97.	"	"	इंदिरा गांधी इंटरनेशनल एयरपोर्ट, टर्मिनल पालम एयरपोर्ट, नयी दिल्ली
98.	"	"	शकूरबस्ती एन पी जी बॉटलिंग प्लांट, शकूरबस्ती, नयी दिल्ली
99.	"	"	इंदिरा गांधी इंटरनेशनल एयरपोर्ट, टर्मिनल पालम एयरपोर्ट नयी दिल्ली
100.	"	"	बिजबासन इन्स्टेशन बिजबासन, नयी दिल्ली-110001
101	"	"	11वां मल, टावर, -II जीवन भारती भवन, कॅनाट सर्कस, नई दिल्ली-110001

क्रम सं.	राज्य/केंद्रशासित प्रदेश का नाम	क्षेत्र का नाम	फैक्टरी/प्रतिष्ठान का नाम
102.	भई जिल्ला	नई जिल्ला	बिजवासन डिस्पैच यूनिट बिजवासन, नई दिल्ली-110061
103.	उड़ीसा	भुवनेश्वर	भुवनेश्वर डिबिजनल ऑफिस, प्लॉट सं. 121-बी, सूर्यनगर, यूनिट 7, पी. ओ. ब्रह्मसा कानोनी, पोस्ट बॉक्स सं. 165,
104.	"	कटक	कटक डिपो, रोडपुर, पी. ओ. कटक-753003
105.	"	संबलपुर	संबलपुर डिपो, पी. ओ. मोदीपारा, जिला-संबलपुर-768002
106.	"	बेरहामपुर (गंजम)	बेरहामपुर डिपो, पी. ओ. बेरहामपुर, जिला गंजम-768006
107.	"	भुवनेश्वर (खुर्दा)	खुर्दा एल पी जी फिलिंग प्लॉट, खुर्दा इंडस्ट्रियल इस्टेट, पोस्ट ऑफिस पी. एन. कॉलेज, खुर्दा-3, भुवनेश्वर
108.	पंजाब	चंडीगढ़	चंडीगढ़ डिबिजनल ऑफिस, ब्लॉक सं. 70 एण्ड 71. सेक्टर सं. 17, न्यू बैंक ऑफ इंडिया बिल्डिंग, पी. जी. सं. 39, चंडीगढ़-160017
109.	"	पटियाला	पटियाला डिपो, रेलवे गुड्स यार्ड के पास, फैक्टरी एरिया, पटियाला-147002
110.	"	पठानकोट	पठानकोट डिपो, धाकी रोड, रेलवे स्टेशन के पास, पठानकोट 145001
111.	"	जालंधर	जालंधर डिपो, रेलवे गुड्स यार्ड के पास, जालंधर मिर्दा, जालंधर-144004
112.	"	"	जालंधर डिस्पैच यूनिट, द्वारा आई ओ सी पाइपलाइन एण्ड एल पी जी जी बोटलिंग प्लॉट सूची गिण्ट, जालंधर
113.	"	अंबाला	अंबाला डिस्पैच यूनिट, शास्त्री कॉलोनी के पास, जी. टी. रोड, अंबाला-133001
114.	"	अंबाला (पटियाला)	बालरू एल पी जी फिलिंग प्लॉट पी. ओ. सिवाना 140501. बिजेज बालरू, जिला पटियाला, अंबाला
115.	राजस्थान	जयपुर	जयपुर डिबिजनल ऑफिस, ओरियंटल रोड, जयपुर साउथ, पी. जी. सं. 106, जयपुर-302001
116.	"	जयपुर	जयपुर डिपो, बायस गोधाम, जयपुर साउथ-302001



क्रम सं.	राज्य/केन्द्रशासित प्रदेश का नाम	क्षेत्र का नाम	फैक्टरी/प्रतिष्ठान का नाम
117.	राजस्थान	अजमेर	अजमेर डिपो, टोपी धारा, रेलवे कॉलिंग के पाग, अजमेर-205001
118.	"	उदयपुर	उदयपुर डिपो, उद्भागर रोड, उदयपुर-313001
119.	"	कोटा	कोटा डिपो, गुड्स शेड के पास कोटा
120.	"	जोधपुर	जोधपुर डिपो, राय का बाग, जोधपुर
121.	"	जयपुर	जयपुर एन पी जी बांटमिंग प्लांट, प्लांट सं. एमपी-2, रोड सं. 14, विणवकर्मा इंडस्ट्रियल इस्टेट, जयपुर-302103
122.	"	सूरतगढ़	सूरतगढ़ एविएशन सर्विस स्टेशन, बी पी आई सेक्शन, 35 किग, द्वारा 56 ए पी ओ, सूरतगढ़
123.	तामिलनाडू	मद्रास	मद्रास एरिया ऑफिस, 7, कांयमन्नकम हाथ रोड, पी. बॉक्स सं. 1277 मद्रास-600034
124.	"	"	मद्रास डिजिटल ऑफिस, सं. 7, कोडपन्नकम हाथ रोड, पोस्ट बॉक्स सं. 1277, मद्रास-600034
125.	"	"	नॉडियारपेट इन्स्टेशन, नॉडियारपेट, मद्रास-600081
126.	"	"	द्वारा आई ओ सी न्यूव ब्रेडिंग प्लांट, मद्रास डिस्ट्रीक्ट यूनिट, इन्नोर हाथ रोड, मद्रास-600081
127.	"	"	मदुराई डिपो, मदुराई-625001
128.	"	"	निरुनेलवेल्ली डिपो, गुड्स शेड रोड निरुनेलवेल्ली-627001
129.	"	"	त्रिची डिपो, गुड्स शेड रोड, त्रिचिरापल्ली-620001
130.	तामिलनाडू	सेलम	सेलम डिपो, द्वारा एच पी सी एन डिपो, सेलम-636001
131.	"	इरोड	इरोड डिपो द्वारा एच पी सी एन डिपो, वरनामार्नी रोड, इरोड-638002
132.	"	कोयंबटूर	कोयंबटूर इन्स्टेशन, पी. बी. 15 1644, पालावेडू, कोयंबटूर-641004

क्रम सं.	राज्य/केंद्रशासित प्रदेश का नाम	क्षेत्र का नाम	फैक्टरी/प्रतिष्ठान का नाम
133.	तमिलनाडु	कोयंबटूर	कोयंबटूर एल पी जी बॉटलिंग प्लांट, पीलामेडु, कोयंबटूर-641 004
134.	"	तूतीकोरीन	तूतीकोरीन एल पी जी बॉटलिंग प्लांट, मडुराई बाय पास रोड, तूतीकोरीन-628 008
135.	उत्तर प्रदेश	लखनऊ	लखनऊ डिविजनल ऑफिस, 94, महात्मा गांधी मार्ग, पी. बॉक्स सं. 31, लखनऊ-226 001
136.	"	आगरा	आगरा डिपो, छाऊं का मागले, प्रतापपुरा, ईदगाह, आगरा-282 001
137.	"	बरेली	बरेली डिविजनल ऑफिस, 35/11-8, सिविल लाइम्स, बरेली-243 001
138.	"	गोरखपुर	गोरखपुर डिपो, गुड्स योड के पास, समशाला रोड, गोरखपुर-273 001
139.	"	कानपुर	आई सी बी पी सी एल डिसैच यूनिट, द्वारा आई ओ सी इस्टेशन, पी. ओ. पंकी पावर हाऊस, कानपुर-208 020
140.	"	कानपुर (फजलगंज)	कानपुर डिपो, फजलगंज, कानपुर-208 012
141.	"	इलाहाबाद	इलाहाबाद डिसैच यूनिट, पी. बी. नं. 44, द्वारा आई ओ सी, युनेवारगंज, इलाहाबाद,
142.	"	मुगलसराय	आई सी बी पी सी एल डिसैच यूनिट, द्वारा आई ओ सी इस्टेशन, मुगलसराय
143.	"	मथुरा	बी पी सी डिसैच यूनिट, एस एण्ड डी बिल्डिंग, गेट सं. 9 के सामने, मथुरा रिफाइनरी, मथुरा
144.	"	मेरठ	मेरठ डिपो, भनू का मकबरा, मेरठ-250 002
145.	"	सहारनपुर	सहारनपुर डिपो, ग्रंथ रोड, सहारनपुर-247 001
146.	"	लखनऊ	लखनऊ एल पी जी बॉटलिंग प्लांट, फुरली रोड (स्पॉर्ट्स कॉलेज के पास), लखनऊ
147.	"	बरेली	बरेली एल पी जी बॉटलिंग प्लांट, इंडस्ट्रियल इस्टेट, मुराबाबा रोड, बरेली
148.	पश्चिम बंगाल	कलकत्ता	कलकत्ता एरिया ऑफिस, 31, बेमॉय बावल, विशेष बाग, पी. ओ. बॉक्स सं. 360, कलकत्ता-700 001

क्रम सं.	राज्य/केन्द्रशासित प्रदेश का नाम	क्षेत्र का नाम	पैकटरी/प्रतिष्ठान का नाम
149.	पश्चिम बंगाल	कलकत्ता	कलकत्ता डिजिटल कार्यालय, ग्रॉफ्टेबिघस चेंबर, लीमरा मंजिल, 15/सी हेमंथा बासुमराती, पी. बॉक्स नं. 2953, कलकत्ता-700 001
150.	"	हावड़ा	मौरीधाम डिस्ट्रिक्ट यूनिट द्वारा आई सी इन्स्टेलेशन पी. ओ. राधाबासी, हावड़ा
151.	"	मिदनापुर	हलधिया डिस्ट्रिक्ट यूनिट, पी. ओ. हलधिया ग्रॉफ़िन रिफ़ाइनरी, जिला-मिदनापुर
152.	"	राजबंघ	राजबंघ डिस्ट्रिक्ट यूनिट, द्वारा आई सी इन्स्टेलेशन, पी. ओ. राजबंघ, जिला बुरुद्वान, पिन कोड -713 212
153.	"	बज बज	बज बज इन्स्टेलेशन पी. ओ. बज बज, जिला 24 परगना, पिन कोड-743 319
154.	"	जलपैगुडी	नयी जलपैगुडी डिस्ट्रिक्ट यूनिट, द्वारा आई सी इन्स्टेलेशन, पी. ओ. भक्तिनगर, जिला जलपैगुडी पिन कोड-734 425
155.	"	"	बलगांव डिपो, पी. ओ. बीरपरें, जलपैगुडी पिन कोड-735 204
156.	"	राजबंघ	राजबंघ डिपो, पि. ओ. राजबंघ, जिला बुरुद्वान, पिन कोड-713 212
157.	"	कलकत्ता	बम बम एविएशन सर्विस स्टेशन, दम बम एयरपोर्ट, कलकत्ता
158.	प्रांथ प्रदेश	राजामुंद्री	राजामुंद्री डिपो, राजामुंद्री
159.	"	विशाखापट्टनम	विशाखा इन्स्टेलेशन, विशाखा
160.	बिहार	पटना	पटना इन्स्टेलेशन, पटना
161.	जम्मू एण्ड कश्मीर	श्रीनगर	श्रीनगर डिपो, श्रीनगर
162.	केरल	त्रिवेंद्रम	त्रिवेंद्रम एविएशन सर्विस स्टेशन, त्रिवेंद्रम
163.	मध्य प्रदेश	भिटौनी	भिटौनी डिपो, भिटौनी
164.	मध्य प्रदेश	मंगालिया	मंगालिया डिपो, मंगालिया
165.	महाराष्ट्र	मिरज	मिरज डिपो, मिरज
166.	"	तडाली (बंदा)	तडाली डिपो, तडाली
167.	पंजाब	भटिंडा	भटिंडा डिपो, भटिंडा

\* नये प्रतिष्ठान की सूची वर्ष 1991 तक आने की संभावना है ।

क्रम. सं.	राज्य/विशेषासित प्रदेश का नाम	क्षेत्र का नाम	फैक्टरी/प्रतिष्ठान का नाम
168.	राजस्थान	भरतपुर	भरतपुर डिपो भरतपुर
169.	तामिलनाडु	शंकरा	शंकरा डिपो शंकरा
170.	उत्तर प्रदेश	मथुरा	मथुरा इन्स्टेलेशन मथुरा

\* नये प्रतिष्ठान की सूची वर्ष 1991 तक घाने की संभावना है।

[सं० एस० 38014/51/88-एस एस I]

ए. के. भट्टाचार्य, अवर सचिव

(स्पष्टीकरण प्राप्त)

हम मामले में छूट को भूतवर्ती प्रभाव देना आवश्यक हो गया है क्योंकि छूट के आवेदन पर कार्यवाही करने में समय लगता था। किन्तु यह प्रमाणित किया जाता है कि छूट को भूतवर्ती प्रभाव देने से किसी भी व्यक्ति के हित पर पतित प्रभाव नहीं पड़ेगा।

S.O. 2987.—In exercise of the powers conferred by section 88 read with section 91A of the Employees' State Insurance Act, 1948 (34 of 1948) and in continuation of the notification of the Government of India, in the Ministry of Labour No. S.O. 2557 dated the 28th September, 1987, the Central Government hereby exempts the regular employees of the Units of M/s. Bharat Petroleum Corporation Limited specified in the scheduled annexed hereto from the operation of the said Act for a period from 1st October, 1987 upto and inclusive of 30th September, 1991.

The above exemption is subject to the following conditions, namely:—

- (1) The aforesaid factory wherein the employees are employed shall maintain a register showing the names and designations of the exempted employees;
- (2) Notwithstanding this exemption, the employees shall continue to receive such benefits under the said Act to which they might have become entitled to on the basis of the contributions paid prior to the date from which exemption granted by this notification operates;
- (3) The contributions for the exempted period, if already paid, shall not be refunded;
- (4) The employer of the said factory shall submit in respect of the period during which that factory was subject to the operation of the said Act (hereinafter referred to as the said period), such returns in such form and containing such particulars as were due from it in respect of the said period under the Employees' State Insurance (General) Regulations, 1950;
- (5) Any inspector appointed by the Corporation under sub-section (1) of section 45 of the said Act, or other official of the Corporation authorised in this behalf shall, for the purpose of—

- (i) Verifying the particulars contained in any return submitted under sub-section (1) of section 44 for the said period; or

- (ii) ascertaining whether registers and records were maintained as required by the Employees' State Insurance (General) Regulations, 1950 for the said period; or

- (iii) ascertaining whether the employees continue to be entitled to benefits provided by the employer in cash and kind being benefits in consideration of which exemption is being granted under this notification; or

- (iv) ascertaining whether any of the provisions of the Act had been complied with during the period when such provisions were in force in relation to the said factory be empowered to—

- (a) require the principal or immediate employer to furnish to him such information as he may consider necessary; or

- (b) enter any factory, establishment, office or other premises occupied by such principal or immediate employer at any reasonable time and require any person found in charge thereof to produce to such inspector or other official and allow him to examine such accounts, books and other documents relating to the employment of persons and payment of wages to furnish to him such information as he may consider necessary; or

- (c) examine the principal or immediate employer, his agent or servant, or any person found in such factory, establishment, office or other premises or any person whom the said inspector or other official has reasonable cause to believe to have been an employee; or

- (d) make copies of or take extracts from any register account book or other document maintained in such factory, establishment, office or other premises.

## LIST OF ESTABLISHMENTS : BIHAR PETROLEUM CORPORATION LIMITED.

Sl. No.	Name of the State/ Union Territory	Name of the Area	Name of the Factory/Establishment
1	2	3	4
1.	ANDHRA PRADESH	Secunderabad	Divisional Office, 45 A, Sarojini Devi Road, Post Box No. 1511 Secunderabad-500 003.
2.	„	Visakhapatnam	Vizag Despatch Unit, Malakapuram P.O. Visakhapatnam-530 011.
3.	„	Gannavaram	Aviation Service Station, Gannavaram Aerodrome, Bacon Factory SPO-521 102.
4.	„	Nizamabad	Nizamabad Depot, Nizamabad 503 003.
5.	„	Tada	Tada Depot, G.N.T. Road, Tada 524 101.
6.	„	Warrangal	Warangal Depot, Goods Shed Road, Warrangal 506 002.
7.	„	Nidadavole	Nidadavole Depot, Nidadavole 534 301.
8.	„	Tadapalli	Tadapalli Depot, C/o HL Depot, Tadapalli-522 501 Dist. Guntur.
9.	„	Sanatnagar	Sanatnagar Depot, C/o HPCL Depot-64-A, Sanatnagar.
10.	„	Renigunta	Tirupati Aviation Service Station Renigunta-517520 Chittoor District (A.P.)
11.	„	Guntakal	Guntakal Depot, C/o HPCL Atur Road, Guntakal.
12.	„	Vizag	LUBS Depot, Vizag-530 011.
13.	„	Hyderabad	Hyderabad Aviation Service Station Hyderabad.
14.	„	Cuddapah	Cuddapah Depot C/o HPCL Depot Cuddapah-516 001.
15.	BIHAR	Patna	Patna Divisional Office, Exhibition Road, P.O. Box. No. 20, Patna-800 001.
16.	„	Begusarai	Barauni Despatch Unit, Barauni Oil Refinery, Dist. Begusarai, Pin Code 851 114.
17.	„	Dhanbad	Dhanbad Depot, Dhanbad Bazar, P. O. Box No. 36, P.O. Dhanbad, Pin Code-826 001.
18.	„	Ranchi	Ranchi Depot, Station Road, P. O. Chutia, Ranchi-834 001.
19.	„	Tatanagar	Tatanagar Depot, Burma Mines, Goods Shed Road, P.O. Tatanagar, Dist. Singhbhum, Pin Code-831 001.
20.	„	Garhara	Garhara Depot, P. O. Garhara-851 126, Dist. Begul Sarai, Bihar.
21.	„	Jamshedpur	Jamshedpur Divisional Office, Hindustan Buildings (2nd floor) Main Road, Bistapur, Bistapur, P. O. Box No. 71, Jamshedpur-831 001.

1	2	3	4
22.	BIHAR	Katihar	Katihar Depot, Post Box No. 10, Katihar-854 105.
23.	GOA	Vasco-Da-Gama	Vasco Despatch Unit, Vasco-Da-Gama (Goa) Pind Code-403 802.
24.	"	Panaji	Goa Divisional Office, 'Ishan' Dr. Pissurlencar Road, Panaji (Goa)-403 001.
25.	GUJARAT	Gandhidam	Kandla Installation, P. B. No. 33, Post Gandhidam, Gujarat.
26.	"	Ahmedabad	Ahmedabad Divisional Office, Mission Road, Bhadra P. O. Box No. 52, Ahmedabad-380 001.
27.	"	Baroda	Koyali Despatch Unit, Jawahar Nagar, Dist. Baroda, Pin Code-391 321.
28.	"	Ahmedabad	Sabarmati Despatch Unit, Sabarmati Installation Ahmedabad-380 019.
29.	"	Bhavnagar	Bhavnagar Aviation Service Station, Civil Aerodrome, Bhavnagar.
30.	"	Bhuj	Bhuj Aviation Service Station, P. Box No. 29, Bhuj-370 001. Gujarat.
31.	"	Surat	Surat Depot, Outside Sahara Gate, Surat-395 003, GUJARAT.
32.	"	Ahmedabad	Ahmedabad Aviation Service Station, Ahmedabad.
33.	HARYANA	Hissar	Hissar LPG Bottling Plant, Dhansu Road, Village Bil, Hissar, HARYANA.
34.	"	Asaoti	Asaoti LPG Bottling Plant, Village Piyala, Tesil Ballabhagarh, P. O. Asaoti, Dist. Faridabad.
35.	"	Sirsa	Sirsa Aviation Service Station, B.P.I. Section, Sirsa-125 055.
36.	"	Hissar	Hissar Depot, Near Railway Station, HISSAR-125 001.
37.	JAMMU & KASHMIR	Srinagar	Srinagar Depot, C/o HPCL, New Airport Road, Srinagar-190 014.
38.	"	Jammu Tawai	Sale Office, 168/A.D. Gandhi Nagar, Jammu Tawi-180 004 (J. & K.).
39.	"	Jammu Tawi	Jammu Depot, Near Railway Station, Jammu Tawi.
40.	KARNATAKA	Bangalore	Divisional Office, 'The Laurels' 2-C, Residency Road, P.B. No. 2575 Bangalore-560 025.
41.	"	Bangalore	Bangalore Installation, Banaswadi Maruthi Seva Nagar, P. B. No. 3305, Bangalore-560 033.
42.	"	Mysore	Mysore Depot, Mysore-570 021.

1	2	3	4
43.	KARNATAKA	Mangalore	Mangalore Depot, C/o IOC Installation, Penambur, Mangalore-575 010.
44.	„	Raichur	Raichur Depot, Raichur-584 101.
45.	„	Mangalore	Mangalore LPG Bottling Plant, Baikampady P.O. New Mangalore-575 011.
46.	„	Bangalore	Bangalore Aviation Service Station, Near NAL (WTC), Kempapura Village, Yemalur, P.O. Bangalore-560 037.
47.	„	Hubli	Hubli Depot, Tabib Land, Hubli.
48.	KERALA	Cochin (Ernakulam)	Cochin Divisional Office, P. Box No. 2622, Ernakulam, Cochin-682 031.
49.	„	Cochin (Ernakulam)	Ernakulam Installation P. B. No. 2615, Ernakulam-682 031.
50.	„	Cannanore	Cannanore Depot, Cannanore-670 001.
51.	„	Cochin	Cochin Despatch Unit, C/o IOC Ambal Magal, COCHIN-682302.
52.	„	Trivandrum	Trivandrum LPG Bottling Plant Kazhakuttam, Trivandrum-695 582.
53.	„	Trivandrum	Trivandrum Depot, Kochuveli Tatanium, Trivandrum-695 021.
54.	„	Cochin	Cochin Installation Complex Project, 31, 1127-A, Vytilla-P.O. Post Box No. 11, Cochin-682 019.
55.	MAHARASHTRA	Bombay	Chairman's Office, Bharat Bhavan, 4 & 6, Currimbhoy Road, Ballard Estate, Bombay-400 038.
56.	„	„	Refining Division, Mahul, Bombay-400 074.
57.	„	„	Bombay Area Office, Bharat Bhavan, 4 & 6 Currimbhoy Road, Ballard Estate, Bombay-400 038.
58.	„	„	'E' & 'F' Maker Towers, 12th Floor, Cuffe Parade, Bombay-400 005.
59.	„	„	Bombay Divisional Office, 'E' & 'F' Maker Towers, 12th floor, Cuffe Parade, Bombay-400 005.
60.	„	„	Area LPG Bombay, Udyog Bhavan, 1st floor, Basement, Ballard Estate, Bombay-400 038.
61.	„	„	Aviation Service Station, Santacruz Aerodrome, (Domestic) Santacruz, Bombay-400 057.
62.	„	„	Bharat Petroleum Training Centre, Trombay House, Juhu, Bombay-400 054.
63.	„	„	Marine Oil Terminal, Butcher Island, Bombay.

1	2	3	4
64.	MAHARASHTRA	Bombay	Sewree Installation, Sewree, Bombay-400 015.
65.	"	"	Wadilube Installation, Malet Road, Wadi Bunder, Bombay-400 009.
66.	"	"	Vashi Despatch Unit, Vashi.
67.	"	"	Sewree 'K' Installation, Sewree, Bombay-400 015.
68.	"	"	Akola Depot, Near Railway Station, Akola (M.S.), Pin Code-444 501.
69.	"	Manmad	Manmad Depot, P. O. Box No. 6, Manmad-423 103.
70.	"	Nagpur	Nagpur Depot, Opp. Phule Market, Nagpur-440 016.
71.	"	Sangli	Miraj Depot, Chandan Wadi, Miraj, Sangli District, Pin Code-406 410.
72.	"	Solapur	Solapur Depot, P. O. Box No. 2, Solapur-413 001.
73.	"	Badnera	Badnera Depot, c/o I.O.C. Depot, Behind Vijaya Mills, Badnera, Dist. Amravati, Pin Code-444 701.
74.	"	Poona	Loni Despatch Unit, c/o HPCL Installation, Loni, POONA District.
75.	"	Raigad	Uran LPG Filling Plant, Dist. Raigad, Maharashtra-400 702.
76.	"	Jalgaon	Jalgaon LPG Filling Plant, P-27, M.I.D.C., New Industrial Area, P. O. No. 8, Jalgaon-425 003.
77.	"	Solapur	Solapur LPG Filling Plant Site, Chincholi Village, Mahol Taluka, Solapur-413 006, Maharashtra.
78.	"	Bombay	Trombay Despatch Unit, Refinery Site, Mahul, Bombay-400 074.
79.	"	Nagpur	Nagpur Divisional Office, "Kanoria House", Palm Road, P. O. Box No. 17, Nagpur-440 001.
80.	"	Pune	Poona Divisional Office, Shahajanand Complex, 2416, General Thimmaya Road, P. O. Box No. 61, PUNE-411 001.



1	2	3	4
81.	MADHYA PRADESH	Bhopal	Bhopal Divisional Office, C/2, B.D.A. Colony, Opp. Nagar Nigam Rest House, Near Link Road, No. 3, Shivaji Nagar, Bhopal-462 016.
82.	"	Gwalior	Gwalior Aviation Service Station, P. B. No. 9, Gwalior-474 002.
83.	"	Gwalior	Gwalior Depot, Near Raliway Station, P.B. No. 9, Gwalior-474 002.
84.	"	Indore	Indore Depot, 26, Park Road, Indore-452 003.
85.	"	Khandwa	Khandwa Depot, Khandwa-450 001. (M.P.)
86.	"	Jabalpur	Jabalpur Depot, South Civil Lines, Jabalpur-402 001.
87.	"	Satna	Satna Depot, Satna-485 001.
88.	"	Jabalpur (Bhitoni)	Bhitoni LPG Filling Plant Site, P.O. Shahapura, N. H. 12-Dist. Jabalpur-483 119.
89.	"	Raipur	Raipur Depot, Telghani Naka, P. O. Raipur-492 001.
90.	"	Raipur	Raipur Aviation Service Station, Raipur.
91.	"	Bhilai (Durg)	Bhilai Depot, Bijlee Nagar, P. O. Bhilai, Dist. Durg-490 003.
92.	"	Ratlam	Ratlam Depot, c/o HPC Depot, Ratlam-457 001.
93.	NEW DELHI	New Delhi	Delhi Area Office, E.C.E. House, P. Box No. 7, Connaught Circus, New Delhi-110 001.
94.	"	New Delhi	Delhi Divisional Office, G-7, Laxmi Building, II & III Floor, P. Box No. 396, New Delhi-110 001.
95.	"	New Delhi	Project Office, 88-Hansalaya, 15, Barakhamba Road, New Delhi-110 001.
96.	"	New Delhi	Shakurbasti Installation, Shakurbasti, New Delhi.
97.	"	New Delhi	Indira Bandhi International Airport, Terminal-I, Palam Airport, New Delhi.
98.	"	New Delhi	Shakurbasti LPG Bottling Plant, Shakurbasti, New Delhi.
99.	"	New Delhi	Indira Gandhi International Airport, Terminal-II, Palam Airport, New Delhi.

1	2	3	4
100.	NEW DELHI	New Delhi	Bijwasan Installation, Bijwasan, New Delhi-110 061.
101.	„	New Delhi	11th floor, Tower II, Jeevan Bharati, Connaught Circus, New Delhi-110 001.
102.	„	New Delhi	Bijwasan Despatch Unit, Bijwasan, New Delhi-110 061.
103.	ORISSA	Bhubaneswar	Bhubaneswar, Divisional Office, Plot No. 121-B, Suryanagar, Unit No. VII, P. O. Barnuda Colony, Post Box No. 165, Bhubaneswar-751 003.
104.	„	Cuttack	Cuttack Depot, Sekharpur, P. O. Cuttack-753 003.
105.	„	Sambalpur	Sambalpur Depot, P.O. Modipara, Dist. Sambalpur-768 002.
106.	„	Berhampur (Ganjam)	Berhampur Depot, P. O. Berhampur, Dist. Ganjam-768 006.
107.	„	Bhubaneswar (Khurda)	Khurda LPG Filling Plant, Khurda Industrial Estate, Post Office P. N. College, Khurda-3, Bhubaneswar.
108.	PUNJAB	Chandigarh	Chandigarh Divisional Office, Block No. 70 & 71, Sector No. 17, New Bank of India Building, P. B. No. 39, Chandigarh-160 017.
109.	„	Patiala	Patiala Depot, Near Railway Goods Shed, Factory Area, Patiala-147 001.
110.	„	Pathankot	Pathankot Depot, Dhaki Road, Near Railway Station, Pathankot-145 001.
111.	„	Jalandhar	Jalandhar Depot, Near Railway Goods Shed, Jalandhar City, Jalandhar-144 004.
112.	„	Jalandhar	Jalandhar Despatch Unit, c/o IOC Pipeline & LPG Bottling Plant, Suchi Pind, Jalandhar.
113.	„	Ambala	Ambala Despatch Unit, Near Shastri Colony, G.T. Road, Ambala-133 001.
114.	„	Ambala (Patiala)	Lafu LPG Filling Plant, P. O. Tiwana-140 501, Dist. Patiala, Ambala.
115.	RAJASTHAN	Jaipur	Jaipur Divisional Office, Old Residency Road, Jaipur South, P. B. No. 106, Jaipur-302 001.
116.	„	Jaipur	Jaipur Depot, Bais Godam, Jaipur South-302 001.

1	2	3	4
117.	RAJASTHAN	Ajmer	Ajmer Depot, Topo Dhara, Near Railway Crossing, Ajmer-205 001.
118.	„	Udaipur	Udaipur Depot, Udasagar Road, Udaipur-313 001.
119.	„	Kota	Kota Depot, Near Goods Shed, Kota.
120.	„	Jodhpur	Jodhpur Depot, Rai-Ka-Bagh, Jodhpur.
121.	„	Jaipur	Jaipur LPG Bottling Plant, Plot No. SP-2, Road No. 14, Vishwakarma Industrial Estate, Jaipur-302 103.
122.	„	Suratgarh	Suratgarh Aviation Service Station, BPI Section, 35 Wing, C/o 56 APO, Suratgarh.
123.	TAMILNADU	Madras	Madras Area Office, 7, Kodambakkam High Road, P. Box No. 1277, Madras-600 034.
124.	„	Madras	Madras Divisional Office, No. 7, Kodambakkam High Road, Post Box No. 1277, Madras-600 034.
125.	„	Madras	Tondiarpet Installation, Tondiarpet, Madras-600 081.
126.	„	Madras	c/o I.O.C. Lube Blending Plant, Madras Despatch Unit, Ennore High Road, Madras-600 081.
127.	„	Madurai	Madurai Depot, Madurai-625 001.
128.	„	Madurai	Tirunelveli Depot, Goods Shed Road, Tirunelveli-627 001.
129.	„	Trichirapalli	Trichy Depot, Goods Shed Road, Trichirapalli-620 001.
130.	„	Salem	Salem Depot, c/o HPCL Deopt, Salem-636 001.
131.	„	Erode	Erode Depot, c/o HPCL Depot, Charnamali Road, Erode-638 002.
132.	„	Coimbatore	Coimbatore Installation, P.B. No. 1644, Peelamedu, Coimbatore-641 004.
133.	„	Coimbatore	Coimbatore LPG Bottling Plant, Peelamedu, Coimbatore-641 004.
134.	„	Tuticorin	Tuticorin LPG Bottling Plant, Madurai By Pass Road, Tuticorin-628 008.
135.	UTTAR PRADESH	Lucknow	Lucknow Divisional Office, 94, Mahatma Gandhi Marg, P. Box No. 31, Lucknow-226001.

1	2	3	4
136.	UTTAR PRADESH	Agra	Agra Depot, Chhaun-Ka-Nagle, Pratapnara, Idgah, Agra-282 001.
137.	..	Bareilly	Bareilly Divisional Office, 35/11-8, Civil Lines, Bareilly-243 001.
138.	..	Gorakhpur	Gorakhpur Depot, Near Goods Shed, Dharmasala Road, Gorakhpur-273 001.
139.	..	Kanpur	I/C BPCL Despatch Unit, c/o IOC Installation, P. O. Panki Power House, Kanpur-208 020.
140.	..	Kanpur (Fazalganj)	Kanpur Depot, Fazalganj, Kanpur-208 012.
141.	..	Allahabad	Allahabad Despatch Unit, P. Box No. 44, c/o IOC, Subadarganj, Allahabad.
142.	..	Mughalsarai	IC BPCL Despatch Unit, c/o IOC Installation Mughalsarai.
143.	..	Mathura	BPC Despatch Unit, S & D Building, Opp. Gate No. 9, Mathura Refinery, Mathura.
144.	..	Meerut	Meerut Depot, Abuka Makbara, Meerut-250 002.
145.	..	Saharanpur	Saharanpur Depot, Grand Road, Saharanpur-247 001.
146.	..	Lucknow	Lucknow LPG Bottling Plant, Kurli Road, (Near Sports Collaage), Lucknow.
147.	..	Bareilly	Bareilly LPG Bottling Plant, Industrial Estate, Moradabad Road, Bareilly.
148.	WEST BENGAL	Calcutta	Calcutta Area Office, 31, Benoy Badal Dinesh Bag, P. O. Box No. 360, Calcutta-700 001.
149.	..	Calcutta	Calcutta Divisional Office, Octavious Chambers, 3rd Floor, 15/C, Hemantha, Basu Sarani, P. Box No. 2953 Calcutta-700 001.
150.	..	Howrah	Maurigram Despatch Unit, c/o IOC Installation, P. O. Radhadasi, HOWRAH.
151.	..	Midhapore	Haldia Despatch Unit, P. O. Haldia Oil Refinery, Dist. Midhapore.
152.	..	Rajbandh	Rajbandh Despatch Unit, c/o IOC Installation, P. O. Rajbandh, Dist. Burdwan, Pin Code-713 212.

1	2	3	4
153.	„	Budge Budge	Budge Budge Installation, P. O. Budge Budge, Dist. 24 Parganas, Pin Code-743 319
154.	WEST BENGAL	Jalpaiguri	New Jalpaiguri Despatch Unit, c/o IOC Installation, P.O. Bhaktinagar, Dist. Jalpaiguri, Pin Code-734 425.
155.	„	Jalpaiguri	Dalgaon Depot, P.O. Birpare, Jalpaiguri, Pin Code-735 204.
156.	„	Rajbandh	Rajbandh Depot, P. O. Rajbandh, Dist. Burdwan, Pin Code-713 212.
157.	„	Calcutta	Dum Dum Aviation Service Station, Dum Dum Airport, Calcutta.
158.	ANDHRA PRADESH	Rajahmundry	Rajahmundry Depot, Rajahmundry.
159.	„	Vishakhapatnam	Vizag Installation, Vizag.
160.	BIHAR	Patna	Patna Installation, Patna.
161.	JAMMU & KASHMIR	Srinagar	Srinagar Depot, Srinagar.
162.	KERALA	Trivandrum	Trivandrum Aviation Service Station, Trivandrum.
163.	MADHYA PRADESH	Bhintoni	Bhintoni Depot, Bhintoni.
164.	MADHYA PRADESH	Mangalia	Mangalia Depot, Mangalia.
165.	MAHARASHTRA	Miraj	Miraj Depot, Miraj.
166.	„	Tadali (Chanda)	Tadali Depot, Tadali.
167.	PUNJAB	Bhatinda	Bhatinda Depot, Bhatinda.
168.	RAJASTHAN	Bharatpur	Bharatpur Depot, Bharatpur.
169.	TAMIL NADU	Shankari	Shankari Depot, Shankari.
170.	UTTAR PRADESH	Mathura	Mathura Installation, Mathura.

\*List of New Establishment expected to come up upto 1991.

[No. S-38014/51/88-SS. I]  
A. K. BHATTARAI, Under Secy.

#### EXPLANATORY MEMORANDUM

It has become necessary to give retrospective effect to the exemption in this case as the processing of the application took time. However, it is certified that the grant of exemption with retrospective effect will not affect the interest of anybody adversely.

नई दिल्ली, 6 नवम्बर, 1989

का.प्रा.2988:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार के भारतीय स्टेट बैंक के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय औद्योगिक अधिकरण जयपुर के पंचपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 1 नवम्बर, 1989 को प्राप्त हुआ था।

New Delhi, the 6th November, 1989

S.O. 2988.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the following award of the Central Industrial Tribunal Jaipur as shown in the Annexure in the Industrial dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on 1-11-89.

परिशिष्ट

केन्द्रीय औद्योगिक न्यायाधिकरण, जयपुर

माननीय न्यायाधीश श्री प्रतापसिंह यादव आर.एच.जे.एस.

केस नं. सी.आई.टी. 47/89

मध्य

श्री सज्जन सिंह गुप्ता श्री रामकुमार सिंह निवासी पोन्स तहसील उदयपुर बादी जिला झुनझुन।  
बनाम

क्षेत्रीय प्रबन्धक, स्टेट बैंक आफ इण्डिया, बगालिया भवन, सी स्क्रीम, जयपुर।

रेफरेंस अन्तर्गत धारा 10(1)(घ) औद्योगिक विवाद अधिनियम, 1947

उपस्थित

श्रमिक पक्ष की ओर से: श्री मानसिंह गुप्ता मध्य श्रमिक सज्जनसिंह।

नियोजक पक्ष की ओर से: श्री एस.के. भागवत एवं

श्री जे.पी. यादव सहायक ला आफिसर

श्री एस.जी. भाटिया

दिनांक अर्थात्: 31-8-89

अर्थात्

श्रम संवालय भारत सरकार के डेस्क अधिकारी ने निम्न विवाद अन्तर्गत धारा 10(1)(घ) औद्योगिक विवाद अधिनियम 1947 जिसे तत्पश्चात् अधिनियम निम्न जायेगा अपनी अधिसूचना सं. एल-12012/273/88-डी-3 (ए) दिनांक 19-4-89 के द्वारा इस न्यायाधिकरण अधिनियम हेतु प्रेषित किया है:

“Whether the action of the management of State Bank of India, Jaipur is justified in not allowing Shri Sajjan Singh, Clerk-cum-Cashier to join duty w.e.f. 9th June, 1987 when he reported with medical certificate issued by competent medical officer? If not, to what relief is the workman concerned entitled to?”

2. प्रार्थी श्रमिक सज्जन सिंह ने अपना स्टेटमेंट आफफेस निम्न प्रकार से प्रस्तुत किया। यह कि प्रार्थी श्रमिक सज्जन सिंह की नियुक्ति क्लर्क कम केशियर के पद पर दिनांक 13-10-70 को की गई और प्रार्थी श्रमिक इस पद पर स्थाई हो गया। आगे व्यक्त किया कि वर्ष 1984 में प्रार्थी श्रमिक का पद स्थापन क्लर्क कम केशियर के पद पर स्टेट बैंक आफ इण्डिया की रीगम शाखा पर किया गया था। प्रार्थी श्रमिक 9-6-87 तक अवकाश पर रहा प्रार्थी श्रमिक अवकाश बीमार हो गया और वह 11-8-86 से 29-10-86 तक बीमार रहा। वह ऐसी

स्थिति में नहीं था कि वह अपना कार्यपूर्ण रूप से कर सके। वह केसरीदेवो राजकीय चिकित्सालय टोक में जात्र करवा रहा था प्रार्थी श्रमिक रोगग्रस्त अवधि का रोग प्रमाणपत्र लेकर उपस्थित हुआ जबकि वह 19-10-86 तक बीमारी से मुक्ति नहीं पा सकता था। आगे यह व्यक्त किया कि उसने 30-10-86 से 5-1-87 तक आगे टोक अस्पताल में इलाज करवाया आगे वह निरन्तर बीमार रहा और उसने 6-1-87 से 6-3-87 तक की अवधि का चिकित्सा प्रमाण पत्र प्रस्तुत किया। उसके पश्चात् उसने 7-3-87 से 5-5-87 तक का प्रमाण पत्र प्रस्तुत किया। तत्पश्चात् प्रार्थी ने 6-5-87 से 8-6-87 तक का प्रमाण पत्र प्रस्तुत किया है तत्पश्चात् 9-6-87 को प्रार्थी श्रमिक स्टेट बैंक आफ इण्डिया की रीगम शाखा पर उपस्थित हुआ और वहाँ से उसने तथा बैंक आफ इण्डिया रीगम शाखा ने उसे झूटी पर नहीं लिया और उसे मौखिक रूप से कहा कि क्षेत्रीय कार्यालय क्षेत्र सं. 5 जयपुर से निर्देश मिलने पर ही उसे उपस्थिति लगा दी जायेगी। तत्पश्चात् दिनांक 10-6-87 को प्रार्थी श्रमिक क्षेत्रीय प्रबन्धक क्षेत्र सं. 4 जयपुर के कार्यालय में उपस्थित हुआ और वहाँ स्टाफ ए.ओ. श्री व्यास को सभी परिस्थितियों से अवगत कराया। श्री व्यास ने प्रार्थी श्रमिक से मौखिक रूप से पूछा कि क्या वह बैंक की सकारना शाखा में कार्य करने के लिए तैयार है उसने अपने स्वीकृति जाहिर की परन्तु फिर भी प्रार्थी श्रमिक को पदस्थापन हेतु आदेश नहीं दिया उसके पश्चात् भी प्रार्थी क्षेत्रीय प्रबन्धक क्षेत्र सं. 4 स्टेट बैंक आफ इण्डिया जयपुर कार्यालय पर निरन्तर आता रहा मगर उसे कोई पदस्थापन आदेश नहीं दिया।

3. आगे व्यक्त किया कि प्रार्थी श्रमिक ने उसको बीमार होने की सूचना समय समय पर दी और उसने चिकित्सीय प्रमाण पत्र एवं मेडिकल फिटनेस प्रमाण पत्र भी श्री व्यास को भिजवा दिये। आगे व्यक्त किया कि प्रार्थी श्रमिक को दिनांक 3-10-86 के आदेश द्वारा आर.वी. मैनेजर स्टेट बैंक आफ इण्डिया शाखा रीगम ने सूचित किया कि वह 9-8-86 से कार्य से अनुपस्थित हो गया है अतः वह 30 दिन के अन्दर अन्दर आकर उपस्थित हो जाये ऐसा न करने पर यह मान लेना निम्न कि वह नोटिस अवधि समाप्ति के पश्चात् सेवा का स्वेच्छा से परित्याग हो चुका है। आगे व्यक्त किया कि प्रार्थी श्रमिक की सेवाएं समाप्त करने का कोई आदेश जारी नहीं किया गया और न ही शाखा प्रबन्धक स्टेट बैंक आफ इण्डिया रीगम प्रार्थी श्रमिक की सेवा समाप्त करने के लिए सक्षम था प्रत्यर्थी प्रबन्धक ने प्रार्थी श्रमिक की सेवाएं समाप्त करने का कोई आदेश नहीं निकाला। आगे यह भी व्यक्त किया कि प्रार्थी श्रमिक की सेवाएं समाप्त करने से पूर्व उसको आरोग्य पत्र दिया जाना व बचाव का अवसर दिया जाना आवश्यक था मगर प्रार्थी श्रमिक को कोई नियमानुसार कोई आरोग्य पत्र नहीं दिया गया और न ही मुनवाई का अवसर दिया। आगे यह भी व्यक्त किया कि प्रार्थी श्रमिक को धारा 25एफ अधिनियम का कोई नोटिस भी नहीं दिया। अंतिम प्रार्थना की कि प्रार्थी श्रमिक को समस्त लाभ सहित स्टेट बैंक आफ इण्डिया में पुनः सेवा में लिया जाये और, प्रार्थी श्रमिक को उसकी समस्त बकाया राशि 12 प्रतिशत व्याज सहित दिलाई जाये।

4. अप्रार्थी बैंक की ओर से दिनांक 11-7-89 को उत्तर क्लेम प्रस्तुत किया कि इस विवाद से समझौता प्रस्तुत हो चुका है इसलिए उत्तर क्लेम को खूनामा तौर पर यहां तहरीर किया जाना आवश्यक नहीं है। आगे प्रार्थी सज्जन सिंह उनके अधिवक्ता श्रीमान सिंह गुप्ता एवं श्री एल. जी. भाटिया स्टाफ इंचार्ज एवं श्री जे.के. यादव सहायक ला अधिकार जॉनल आफिसर ने उपस्थित होकर समझौता प्रस्तुत किया। समझौते को पढ़कर सुनाया व समझाया गया पक्षकाराने ने समझौता स्वेच्छा से किया जाना स्वीकार किया अतः समझौते को तस्दीक किया गया। समझौता रेफरेंस परिधि में है और स्वेच्छा से सम्पन्न हुआ है अतः समझौते के आधार पर प्रार्थी श्रमिक के पक्ष में अर्थात् पारित किया जाना है।

समझौता अर्बाई का अंग होगा। इस पंचाट की प्रतिलिपि समझौते की प्रतिलिपि के साथ केन्द्रीय सरकार को वास्ते प्रकाशनार्थ भर्त्तगत घारा 17(1) अधिनियम भेजी जावे।

प्रतापसिंह, न्यायाधीश

[सं. एल.-12012/273/88/डी-III(ए)]

गुभाय चन्द्र शर्मा डेस्क अधिकारी

नई दिल्ली, 7 नवम्बर, 1989

का.आ. 2989:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की घारा 17 के अनुमरण में, केन्द्रीय सरकार भारतीय स्टेट बैंक के प्रबन्धन के संबंध में नियंत्रणों और उनके कर्मचारियों के बीच, अनुबंध में निहित औद्योगिक विवाद में औद्योगिक अधिकरण, ऐ-पी के पक्षपट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26 सितम्बर, 1989 का प्राप्त हुआ था।

New Delhi, the 7th November, 1989

S.O. 2989.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947) the Central Government hereby published the following award of the Industrial Tribunal Alleppey as shown in the Annexure in the industrial dispute between the employers in relation to the management of State Bank of India and their workmen, which was received by the Central Government on 26-9-89.

#### ANNEXURE

#### IN THE COURT OF THE INDUSTRIAL TRIBUNAL, ALLEPEY

(Dated this the 4th day of September, 1989)

I.D. No. 28/1988

BETWEEN

The Chief Regional Manager, State Bank of India  
Regional Office, Shanmugham Road, P.B. No.  
2597, Cochin-682031

AND

The workmen of the above Bank represented by The  
Dy. General Secretary, State Banks Staff Union,  
C/o State Bank of India Regional Office, Shanmugham  
Road, Ernakulam, Cochin-31.

#### REPRESENTATIONS:—

By Sri B. S. Krishnan, Advocate, Ernakulam—For Management.

By Sri A. V. Xavier, Advocate, Cochin-11—For Workmen.

#### AWARD

This dispute is on a reference by the Government of India under Sec. 10(1)(d) of the Industrial Dispute Act. The issue referred for adjudication by order No. L-12011(1)/88/D.III(A) dated 20-9-1988 reads as follows:—

“Whether the action of the management of the State Bank of India in withdrawing the Special Compensatory Allowance of Rs. 25 per month and Rs. 15 per month to the Clerical and Subordinate staff respectively of the Peechi Branch of State Bank of India with effect from 1-2-1987 is justified? If not, to what relief the concerned workmen are entitled?”

2. After entering appearance through the counsel, it was submitted on behalf of the union that the union was not

file any separate claim statement. According to the union, they have nothing more to say than what is stated in their demand notice dated 16-2-1987. It is further submitted that if it is found necessary, they would file a detailed statement as a reply after the filing of statement by the management.

3. In the demand notice dated 16-2-1987 it is stated that special compensatory allowance was being paid with effect from 1-8-1966 to the clerical staff and subordinate staff at the rate of Rs. 25 and Rs. 15 per mensem respectively in the case of employees of Willington Island Branch. The same benefit was extended to the employees of Ambalamedu Branch with effect from 29-1-1968. But in the case of employees of Peechi Pay Office of Trichur Branch it was made effective from 5-8-1968. This benefit was being enjoyed continuously from 1968 despite so many bipartite agreements between the employees and the management and it is alleged, without any justifiable reasons, the management had withdrawn the special compensatory allowance.

4. In the statement filed by the management it is contended that stoppage of special compensatory allowance was effected on the basis of bipartite settlement dated 8-9-1983. In view of that, raising of any dispute and reference thereon are not maintainable in law and on facts. The special compensatory allowance was sanctioned to the workmen and staff at Peechi Pay Office in August 1968 keeping in view the conditions then prevailing there with regard to the locational factors. But it was not at all on the basis of any bipartite settlement. In the bipartite settlement provision is made for payment of compensatory allowance and in the list of places for giving compensatory allowance Peechi area is not at all specified. Despite clear agreement on the areas to be covered for payment of special compensatory allowance, the management chose to issue notice under Sec. 9(A) of the Industrial Dispute Act before withdrawing the compensatory allowance. Ext. M3 is the notice and the communication in the prescribed form served on the employees of the Peechi Branch of the State Bank of India. It is further stated in the written statement that while withdrawing the compensatory allowance all the formalities were complied with.

5. In the rejoinder filed by the union, the contention that the special compensatory allowance was withdrawn in pursuance of bi-partite settlement dated 8-9-1983 is denied. Whenever bipartite settlements are signed with the employees of State Bank of India, improved settlements would be signed invariably and as per one of that improved settlements, the benefit of special compensatory allowance was given to the employees of some of the Branches in Kerala. The additional benefits given to the employees or some of the branches were not at all covered by any of the bi-partite settlement. Basing on the bipartite settlement of the year 1983 when the management tried to discontinue the payment of compensatory allowance to the employees of Willington Island and Port Trust branches at Cochin, they filed writ petitions before the High Court of Kerala and obtained interim stay. On the strength of that stay order, the employees there are still receiving the compensatory allowance. The compensatory allowance was sanctioned in the year 1968 keeping in view of the conditions prevailing in that area. The contention of the management that proper notice under Sec. 9A of the I.D. Act was given at the time of withdrawal of the benefit is also disputed by the union. According to them, the notice under Sec. 9A was served only on Unit Secretary and not to the General Secretary of the union which represents the workmen. Since no registered notice as required by Rule 35 of the Kerala Industrial Dispute Rules was given to the Secretary to the union it cannot be said that requirement regarding the service of notice had been complied with. It is also stated that the action of the management in discontinuing the compensatory allowance is against the code of conduct agreed to between the Bank and the union. Since this allowance is being paid without any interruption for the last 19 years, it has become customary payment and also become part and parcel of the wages of the employees in Peechi branch.

6. Ext. W1 is the compilation of various clauses of first and second agreements between State Bank of India and an India State Bank of India Staff Federation. Ext. W1 is printed and published by the State Bank of India themselves. In that, terms of the agreement dated 31-3-1967 and 1-8-1979 were codified and summarised by giving various heads. In Chapter V of Ext. W-1 in page 18, provision for paying special compensatory allowance is included [see Chapter V(vi)].

7. The Management contends that special compensatory allowance was given purely on managerial discretion and not based on any agreement. The opening part of Ext. W1 will give clue regarding real state of affairs. Therefore it is not based on any agreement. The opening part of Ext. W1 (page 3).

'Now these presents witness and it is hereby agreed by and between the parties hereto as follows:

The parties to the agreement appreciate the importance of mutual understanding and cooperation between management and employees as represented by the Staff Federation. They hope that this agreement arrived at on the basis of collective bargaining on various issues governing the service conditions of the workmen staff in the Bank will stabilise the present harmonious relationship between the two and will assist a mutual recognition of the rights and responsibilities of each party. The parties also pledge to work for the fulfilment of the above objective and to jointly ensure that side by side with better harmonious relations, better discipline, improved efficiency and productivity are achieved so that the Bank is able to give better service to its customers.

In pursuance of the above, the parties hereby record the following agreement reached in respect of the Federations demands and the Banks points to the intent that the agreement shall be binding on the Bank and the Federation in the manner contemplated in Sec. 18 of the Industrial Dispute Act, 1947."

8. After these opening paragraphs, various chapters containing provisions of agreements are codified. Chapter V of Ext. W1 gives details of other allowances based on agreement dated 31-3-1967. That agreement was further improved and in sub-clause (vi) of that agreement provision is made for payment of compensatory allowance to employees of Willington Island and Ambalamedu Branches and Peechi Pay Office under Trichur Branch. It is relevant to extract that also hereunder.

(vi) Special Compensatory Allowance  
5(8) Employees working at Willington Island (with effect from 1-8-'66) and Ambalamedu (with effect from 29-1-'68) Branches and Peechi Pay Office under Trichur Branch (with effect from 5-8-'68) will be paid a special compensatory allowance at the following rates:

Clerical staff and Cash Department Staff Rs. 25/-P.M.

Subordinate staff Rs. 15/- P.M.

9. Relying on the above, the union contends that based on that improved settlement special compensatory allowance was being paid to the employees of Peechi Branch (formerly Pay Office) with effect from 5-8-1968. If the real intention at the time of bi-partite settlement of the year 1983 was to withdraw this special facility, the management could have done that immediately after the signing of the settlement. After four years from the date of the signing of Ext. M1 settlement, the management thought of

withdrawing this special facility in utter disregard of the statutory provisions.

10. It is not in controversy that after the bi-partite settlement with the Bank Employees in general, a separate improved settlement would also be signed usually between the management of State Bank of India and the employees therein. In that line, Ext. W1 Settlement was signed incorporating few more terms by way of improvement. The improved terms of settlement were published by the management of State Bank of India themselves. Thus, it is evident from Ext. W1 that special compensatory allowance paid to the employees of Peechi Branch (formerly Peechi Pay Office) was in terms of the provisions contained in Ext. W1. That benefit has not been nullified at any time by another settlement. If there was the real withdrawal of that benefit through Ext. M1 Settlement, in fact, there was no need for giving a notice to employees under Sec. 9(A) of the Industrial Dispute Act. As a proviso to Section 9(A) it is stated therein that no notice shall be required for effecting any change in service condition or service benefit if the change effected is in pursuance of any settlement or award. Therefore if the special compensatory allowance was withdrawn by Ext. M1 settlement as claimed by management in 1983, there was no need for giving a notice as contemplated in Sec. 9(A) of the Industrial Dispute Act. The very action of the management would indicate that there was no real intention in Ext. M1 settlement to withdraw the benefit of special compensatory allowance given earlier as per Ext. W1 settlement.

11. If we assume the position that there was no provision in Ext. M1 permitting the management to withdraw the special compensatory allowance, then the only recourse for the management for the purpose of withdrawal of benefit would be only invoking Section 9(A) of the I.D. Act.

12. The management has produced Ext. M3 which is a notice of withdrawal dated 13-1-1987 issued by the Branch Manager of the Management Bank. This notice in Form-B was sent to the Unit Secretary of the State Bank Staff Union, Peechi Branch with a covering letter of the same date. Though that notice it was inform that special compensatory allowance would be withdrawn from January, 1987 onwards. Assuming that Ext. M3 is a notice as contemplated in Sec. 9(A) of the I.D. Act, the withdrawal of benefit could not have been effected in the month of January itself because only after the expiry of 21 days from the date of service of notice, withdrawal could have been effected. Sec. 9(A)(b) of the I.D. Act is very clear on that mandatory requirements. Since the withdrawal had been effected even before the expiry of 21 days from the date of service of Ext. M3 which is the one purported to be under Sec. 9(A) of I.D. Act, there is clear violation of the statutory provision by the management themselves.

13. Another lapse on the part of the management is that while sending M3 notice it was sent only to the Unit Secretary of the State Bank Association (Peechi Branch). Rule 35 of the Industrial Dispute Rules (Kerala Rules of 1957) gives guideline regarding the procedure to be adopted in sending notices. In the matter of service of notice if it is in terms of Sec. 9(A) of the I.D. Act it can only be in terms of Rule 35. The Rule 35 of the Industrial Dispute Rules reads:—

Rule 35 Notice of change : Any employer intending to effect any change in the conditions of service applicable to any workmen in respect of any matter specified in the Fourth Schedule shall give notice of such intention in Form E (The notice shall be displayed conspicuously by the employer on a notice board at the main entrance to the establishment and in the Manager's office).

Provided that where any registered trade union of workmen exists, a copy of the notice shall also be served by registered post on the Secretary of such Union.

13. Ext. M3 notice shows that it was served in fact not to the Secretary of the State Bank Staff Union but only to a Unit Secretary of Peechi Branch. Therefore it is clear



that while withdrawing the special compensatory allowance the management had violated both the provisions of the Industrial Dispute Act and Rules.

14. The union has also contended that already there is a code of discipline in the State Bank of India which enjoins the management to do certain things. That code of discipline was on the basis of agreement between the union and the management of the State Bank of India. Ext. W2 which was marked at the time of evidence is Chapter 34 of the code of discipline prevailing in the State Bank of India. According to the union, the management had accepted compensatory and other allowance as an 'industrial matter' in that code and in that case merely by a unilateral action, the benefit of special compensatory allowance could not be withdrawn. The union relies on clause 2 of Ext. W2 code of discipline to contend that despite the definite agreement for mutual consultation and discussion, the management by unilateral action had decided to withdraw the payment of special compensatory allowance. In Ext. W2 there is a provision (in clause 2) that no unilateral action could be taken in connection with an 'industrial matter'. That code of discipline takes in the compensatory and other allowances within the comprehension of industrial matters. Evidently the Ext. M3 notice and further action of the management were in violation of the provisions contained in the code of discipline.

15. It is true that in Ext. M1 settlement there is provision to withdraw special area allowance on certain conditions. Those conditions are laid down in page 156 of Ext. M1.

- (1) The allowance payable at any place shall be discontinued if such allowance (called by any name whatever) ceases to be payable to the employees of the Central Government.
- (2) The allowance will continue to be payable at the stipulated rate only until such time as there is no direction to the contrary from the government and thereafter subject to such direction.
- (3) However on the date on which this settlement comes into force, if any workman at the specified places was receiving a special area allowance (called by any name whatever) at a rate higher than that prescribed above, the difference in amount shall be protected and paid as unjustified allowance.

(d) \* \* \* \* \*

(e) \* \* \* \* \*

16. Possibly relying on the above, the management had initiated action. To vindicate their stand they had produced Ext. M7, M8 and M9 letters respectively sent by the Superintendent of Post Office, Trichur, Central Plantation Crops Research Institute, Trichur and Hydrologic Research Station, Peechi. Those letters would show that the employees of those departments or establishments were receiving, some kind of compensatory allowance sometime past. Of course, on that line of withdrawal the management can also withdraw the benefits subject to the compliance of the provisions contained in the code of discipline Ext. W2 and Sec. 9(A) of the Industrial Dispute Act.

17. The evidence adduced in this dispute would indicate that before deciding to withdraw the benefit of special compensatory allowance the management did not care to follow the statutory provisions and also the code of discipline agreed to by them also.

18. The merit of the claims advanced by the union can be adjudicated only if the withdrawal itself was after fully complying with the formalities contemplated either under the I.D. Act or under the code of discipline. Since there was no valid withdrawal of the benefit, there is no need for going into merit of the claims advanced by the union in the present dispute. Therefore I am passing an award hold-

ing that the action of the management in withdrawing the special compensatory allowance was in violation of Sec. 9(A) of the I.D. Act and the terms contained in the code of discipline Ext. W2. In the result, the employees are entitled to receive the benefit of special compensatory allowance till that is competently withdrawn by the management.

The award is passed accordingly.

Sd/-

K. KANAKACHANDRAN, Presiding Officer  
Alleppey.

#### APPENDIX

Witnesses examined on the side of the Management :

MW1—J. Sampath.

MW2—M. Prabhakaran.

Witness examined on the side of the Union :

WW1—A. P. Gopalakrishnan.

Exhibits marked on the side of the Management :

M1—Bi-partite settlement dated 5-8-68.

M2—Bi-partite settlement dated 8-9-1983.

M3—Letter dated 13-1-87 from the Branch Manager (Withdrawal of special compensatory allowance being paid to clerical/cash and subordinate staff at Peechi Centre).

M4—Letter of Deputy Secretary and Treasurer S.B.I. to the Managing Director, S.B.I. dated 26-7-69.

M5—Letter from Managing Director to Secretary and Treasurer dated 12-9-69.

M6—Letter from Deputy Secretary and Treasurer to Agent, S.B.I., Trichur dated 19-9-69.

M7—Letter from Superintendent of Post Office, Trichur Division to the S.B.I. dated 18-5-89.

M8—Letter from Central Plantation Crops Research Institute to S.B.I. dated 11-5-89.

M9—Letter of Hydraulic Research, KERI, Peechi to S.B.I. dated 16-5-89.

Exhibits marked on the side of the Union :

W1—Third Bipartite Settlement.

W2—Code of Discipline in industry and recognition of unions.

W3—Letter dated 26-4-1968 regarding the introduction of Special Compensatory Allowance to the Employees of the Willington Island Branch.

K. KANAKACHANDRAN, Presiding Officer

[No. L-12011/1/88-D.III(A)]

S. C. SHARMA, Desk Officer

नई दिल्ली, 7 नवम्बर, 1989

का.आ. 2990:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार हैनी बटर प्रोजेक्ट (के) रावतभाटा के प्रबन्धन के सम्यक् नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निदिष्ट औद्योगिक विवाद में औद्योगिक अधिकरण जयपुर के पत्रों को प्रकाशित करती है, जो केन्द्रीय सरकार की प्राप्त हुआ था।

New Delhi, the 7th November, 1989

S.O. 2990.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Jaipur as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Heavy Water Project (K) Rawatbhatta and their workmen, which was received by the Central Government.

केन्द्रीय औद्योगिक न्यायाधिकरण, राज., जयपुर

केस नं. सी.आई.टी. 31/87

भारत सरकार, श्रम मंत्रालय, नई दिल्ली की अधिसूचना सं. एल. 43012/17/85-डी. 5/डी.-2 बी. दिनांक 9-6-87

सेक्रेटरी, भारी पानी परियोजना कर्मचारी संघ, पी.ओ. रावतभाटा

..... प्रार्थी यूनियन

बनाम

वर्कर्स मैनेजर, हैबो वाटर प्रोजेक्ट (के. रावतभाटा)।

..... अप्रार्थी नियोजक

उपस्थिति

माननीय श्री प्रताप सिंह यादव, धार.एच.जे.एस.

प्रार्थी पक्ष की ओर से : कोई हज़िर नहीं

अप्रार्थी नियोजक की ओर से : श्री बीरेन्द्र जैन

दिनांक : 29-4-89 (कैम्प कोटा)

अवार्ड

भारत सरकार के श्रम मंत्रालय के ईस्क आफिसर ने उसकी आज्ञा संख्या एल.-43012/17/85-डी. 5/डी.-2 (बी) दिनांक 9-6-87 निम्न विवाद इस न्यायाधिकरण के अन्तर्गत धारा 10(1)(डी) औद्योगिक विवाद अधिनियम 1947 जिसे मत्पञ्चात् अधिनियम लिखा जाएगा, वास्ते अधिनिर्णायार्थ प्रेषित किया है :

“Whether the actions of the management of Heavy Water Project (K) in imposing the punishment of Stopage of one and two increments on Shri Mohan Lal DCO under orders dated 19th September, 1983 and 2nd March, 1984 respectively are justified and proper? If not, what relief is the workman concerned entitled?”

बाव प्राप्ति निवेदन यह विवाद इस न्यायाधिकरण में प्राप्त हुआ जिसे पंजीकृत किया गया। उभय पक्षकारान को नोटिस जरिण पंजीकृत डाक जारी किये गये। अप्रार्थी नियोजक की ओर से प्रारम्भ में श्री एन के. नागर उपस्थित आए और श्रम श्री बीरेन्द्र जैन ने उनका बकायान नामा प्रस्तुत किया। भारी पानी परियोजना कर्मचारी संघ डाक रावतभाटा की कैम्प की सूचना पुन 28-4-89 के लिए जरिण डाक भेजी गई जिसका नोटिस सेक्रेटरी भारी पानी परियोजना कर्मचारी संघ डाक घर रावतभाटा द्वारा दिनांक 20-4-89 को प्राप्त हो गया और ऐसा ही नोटिस प्रबन्धक, हैबो वाटर प्रोजेक्ट के रावतभाटा को भी प्राप्त हो गया। इन नोटिसों की प्राप्ति के बाद नियोजक की ओर से उनके वकील उपस्थित आए। यूनियन की ओर से श्री बीरेन्द्र सिंह ने एक दख्खान्त पेश की कि क्लेम अभी तैयार नहीं है। उसके लिए अगली तारीख पेशी की जावे। यद्यपि यह रेफरेंस सन 1987 से चल रहा है और इस रेफरेंस की प्रतिलिपि सेक्रेटरी भारी पानी परियोजना कर्मचारी संघ को इस निर्देश के साथ भेजी गई थी कि औद्योगिक विवाद (केन्द्रीय) नियम 1957 के नियम 10(अ) के अन्तर्गत विवाद उठाने वाले पक्ष के लिए वह बाध्य है कि वह अपना क्लेम दस्तावेजान सहित इस निर्देश के आदेश की प्रति प्राप्त होने के 15 दिनों के अन्दर अधिकरण में दायर करेगा और संगत दस्तावेजान के संबंध में भी जिनपर कि वह ग्वारंटी करता है और गवाहों की सूची भी वह 15 दिन के अन्दर अन्दर न्यायाधिकरण में दायर करेगा और उगकी प्रति अपने विपक्षी पक्षकार को भेजेगा। स प्रकार का आदेश केन्द्रीय सरकार की ओर से होते हुए भी प्रार्थी यूनियन ने न तो कोई क्लेम दो मान्य तक दाखिल किया न ही न दाखिल

करने का कोई कारण ही जाहिर किया। वहाँ तक कि एहनीयात के तौर पर न्यायाधिकरण की ओर से जरिण एम्प्लोयेजमेंट ड्यू उन्हें स्टेटमेंट आफ क्लेम पेश करने के लिए नोटिस भेजा गया जिसकी प्राप्ति 20-4-89 को हो गई और इस नोटिस प्राप्ति के बावजूद भी यूनियन ने क्लेम पेश नहीं किया। दिनांक 28-4-89 को पुन प्रार्थी यूनियन की प्रार्थना पर अगले दिन 29-4-89 को क्लेम पेश करने के लिए समय विय गया मगर 29-4-89 को यूनियन की ओर से कोई उपस्थित नहीं आया। इससे ऐसा प्रतीत होता है कि यूनियन क्लेम पेश करने में कोई रुचि नहीं ले रहा है या कोई विवाद वानों पक्षों के मध्य शेष नहीं रहा है। ऐसी परिस्थिति में सोझा विवाद के संबंध में नौ डिस्प्यूट अवार्ड पारित किया जाता है जो नियमानुसार केन्द्रीय सरकार को वास्ते प्रकाशनार्थ भेजी जाए।

प्रताप सिंह यादव, न्यायाधीश

[सं. एल-42012/17/85-डी.बी.-2(बी)]

का.आ. 2991—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार इंडियन इन्स्टीट्यूट आफ हार्टी कल्चर रिसर्च स्टेशन, बंगलौर के प्रबन्धन के सम्बन्ध में निम्नलिखित अधिनियमों और उनके कर्मचारियों के बीच, अनुबंध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलौर के पचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-10-89 को प्राप्त हुआ था।

S.O. 2991.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Indian Institute of Horticultural Research Station, Bangalore and their workmen, which was received by the Central Government on the 27th October, 1989.

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT BANGALORE

Dated the 5th day of September, 1989

CENTRAL REFERENCE NO. 13/89

(Old Central Reference No. 43/87)

## I PARTY:

Sri S. Nagaraj & 26 Others,  
Rep. by The President,  
Indian Institute of Horticultural  
Research Station Workers Union,  
S.C. Road, Bangalore-560009.

Vs.

## II PARTY

The Director,  
Indian Institute of  
Horticultural Research  
(ICAR) No. 25,  
Upper Palace Orchards,  
Bangalore-560080.

## APPEARANCES:

For the I Party—Smt. K. Sarojini Muthana, Advocate.

For the II Party—Shri S. V. Sastri, Advocate.

## AWARD

By exercising its powers under Section 10(1)(d) and Sub-Section (2A) of the I.D. Act, the Government of India, Ministry of Labour had made the reference on the following

point of dispute by its order No. L-42011/7/85-D, II(B) dated 14th February, 1986.

2. The reference was originally made to the Industrial Tribunal constituted by the State Government. Subsequently, it has been transferred to this Tribunal by a General Order No. L-11025/A/87-D, IV(B) dated 13th February, 1987. It was at Sl. No. 44 in the said order.

3. The Point of reference is as follows:

#### POINT OF REFERENCE

“Whether the management of Indian Institute of Horticultural Research Station, Bangalore is justified in refusing to employ Sri S. Nagaraj and other 88 workmen shown in the appended list with effect from 19th January, 1985? If not, to what relief they are entitled?”

4. The Annexure to the order of reference states the names of 89 workmen. It was contended for the II party management that 27 persons were involved in a criminal case. In that context the case against 27 persons involved in the criminal case was separated and a part award has been passed in regard to the rest of the workmen, on 2nd November 1988, who were not involved in the criminal case.

5. The present matter regarding these twenty-seven persons has been numbered as Central Reference No. 13/89.

6. The pleadings of the parties have been already briefly set out in part of the award dated 2nd November, 1988 and do not require any repetition.

7. In the sessions case No. 98/86 on the file of the Additional Sessions Judge, Bangalore Rural District, Bangalore, there were 28 accused and the learned Sessions Judge convicted accused numbers 1, 2 and 4 for offences under Sections 323 and 332 of the IPC. He acquitted all the other accused of the charges under Section 235(1) Cr. P.C. After their acquittal, these twenty-seven persons filed interim application No. 1 dated 17th January, 1989 and prayed that their case may be re-opened and adjudicated.

8. It was likewise taken up. On 2nd May, 1989, the II party filed I.A. No. 3 for amendment of the counter statement. Objection for the same was received from the I party and parties were heard. By a considered order dated 5th June, 1989, it was rejected.

9. Then the II party commenced its evidence as regards these twenty-seven workmen. MW-1 Shri B. C. Mruthunjaya who had been earlier examined in C.R. 43/87 was recalled and examined further. Thereafter, the parties agreed to adduce evidence by affidavits. They were permitted to do so. The parties have filed the affidavits of the witnesses.

10. The learned counsel for the II party has been heard. The I party has filed written arguments.

11. My finding on the point of reference as regards these twenty-seven workmen is as follows:

Since accused No. 1 Hanumanthappa Alias Hanumantharayappa, S/o Narasiah, Sl. No. 20 (Sl. No. 69 in the order of reference), accused No. 2 Shri S. Venkatesh S/o Sadappa, Sl. No. 8 (Sl. No. 13 in the order of reference) and accused No. 4 Ambigaiah S/o Ramaiah, Sl. No. 6 (Sl. No. 11 in the order of reference) have been convicted by the learned Additional Sessions Judge, they are not entitled to any relief. As regards Sl. No. 1 Sri S. Nagaraju S/o Siddaiah, it is admitted that he is employed in the Indian Institute of Science since 10th January, 1986 and as such, his case is dealt with separately.

12. In relation to the rest of twenty-three persons, the same award is passed and the same reliefs are granted as to the other workmen in C.R. 43/87 dated 2nd November, 1988.

#### REASONS

13. In his further evidence, MW-1 Shri B. C. Mruthunjaya, the Garden Superintendent and also in his affidavit filed on 3rd July, 1989, it is to be found that on 18th January, 1985, all of a sudden the I party workmen attacked him with stones,

lathis and other weapons, that he sustained injuries on his head, shoulder and other parts of the body and that he had become unconscious and thus they had attempted to commit murder. Nowhere the witness has named any workman. An omnibus general statement that all the I party workmen attacked him and attempted to commit his murder is of no avail. The Sessions Court which has dealt with the matter, has already arrived at a conclusion that except the three workmen, no guilt under any provision of law has been established against any of these other workmen.

14. In the written arguments, it has been contended by the I party that the II party cannot be permitted to adduce evidence or endeavour to prove any guilt against any of these workmen, besides the workmen as Sl. No. 6, 8 and 20, who have been convicted, for the reason that they have been already acquitted and also for the reason that the amendment application of the II party, I.A. No. 3 has been rejected.

15. The learned counsel for the II party cited the case of Jayaram Panda, Vs. D. V. Raiyani and others (1989 A.I.R. Orissa page 109). It has been laid down in the authority that the departmental authority may take into account and decide whether the departmental enquiry should be continued or not, even after acquittal by the criminal court and that the power of the authority to continue the same is not taken away nor the discretion of the management has been fettered in any manner. In the case at hand, even till today, no chargesheet had been issued against any of these workmen, no domestic enquiry has been held. The learned counsel for the II party strongly contended that because all of them were persons engaged on casual basis, the rules of the II party do not apply to them, and that no chargesheet nor any departmental enquiry is required to stop the engagement of casual workers. There is evidence on record to show that these workmen have worked for several years and some of them more than a decade. It would be travesty of truth, if persons who are engaged for more than 10 years are still to be called as persons engaged on casual basis. The affidavits of all these workmen are already on record in C.R. No. 43/87. Those workmen who had not filed affidavits earlier, such as H. Hanumantharayappa S/o Hanumaiah, Shri H. S. Venkateshappa, S/o Shankarappa Shri S. Nagaraju, S/o Siddaiah show that they have put in 4, 7 and 11 years of service respectively. When the facts and circumstances of the case establish that there is continuous work with the II party for all these workmen for several years, it was imperative on the part of the II party to have prepared a scheme and have regularised these workmen, but the II party has continued to call them as casuals for years together. The II party cannot have the advantage of its own wrongs. The principles of natural justice would, none-the-less call upon the II party to issue a chargesheet and give notice to the workmen as to what is the exact act of misconduct committed by each of them with all the particulars such as date, time, place, witnesses, documents relied upon etc. Further, it was imperative on the II party to have held the domestic enquiry against them. Even supposing that, the circumstances and the situation did not permit them to hold a domestic enquiry, nothing prevented the management to issue separate chargesheets at a later date and endeavour to establish the said acts of misconduct by adducing evidence before this Tribunal itself. No such attempt has been made by the II party.

16. The affidavit of Allampalli Venkatram, the President of the I party union shows that in spite of the best efforts made by the Union, the II party did not give work to the I party workmen and evaded to face its responsibilities, by putting off the matter. Detailed analysis of the evidence has been already made and reasons have been assigned for granting relief for the rest of the workmen. In regard to these twenty-four workmen, including S. Nagaraju (Sl. No. 1), except the convicted three workmen, I find that the evidence already placed on record in C.R. 43/87 and the additional affidavits as discussed above, establish that these twenty-four workmen also are entitled to the same reliefs, except that Sl. No. 1 Nagaraju is not entitled to reinstatement.

17. In the result, an award is passed to the effect that the management of Indian Institute of Horticultural Research Station, Bangalore, was not justified in refusing to employ all these twenty-seven persons except Sl. No. 6 Ambigaiah, Sl. No. 8 Hanumantharayappa and Sl. No. 20 Hanumanthappa (Sl. Nos. 11, 15 and 69 as shown in the order of reference respectively).

18. The II party is directed that it shall reinstate the twenty-three workmen, out of the twenty-seven shown in the enclosed list and the workmen excluded from reinstatement are Sl. No. 1 S. Nagaraju, Sl. No. 6 Ambigaiah Sl. No. 8, S. Venkatesh and Sl. No. 20 Hanumanthappa.

19. The management is further directed to give all the aforesaid twenty-three workmen continuity of service and other consequential benefits, except that they shall be paid back wages only for forty-five days from 19th January, 1985.

20. In the case of Sl. No. 1 Sri S. Nagaraju, the management is further directed to pay him only the back wages of forty-five days with effect from 19th January, 1985 and no other relief.

21. The II party is directed to reinstate the said twenty-three workmen forthwith and thereupon they shall cease to get the Interim Relief, which they are now receiving by virtue of the order passed by the Hon'ble High Court of Karnataka.

(Dictated to the Personal Assistant, taken down by her, got typed and corrected by me.)

B. N. LALGE, Presiding Officer.  
[No. L-42011/7/85-D.II(B)]

का. भा. 2992.—श्रीयोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार साहित्य अकादमी नई दिल्ली, के प्रवर्तन के सम्बन्ध निम्नलिखित और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट श्रीयोगिक विवाद में केन्द्रीय सरकार श्रीयोगिक अधिकरण, नई दिल्ली के विवाद को प्रकाशित करती है, जो केन्द्रीय सरकार को 2-10-89 को प्राप्त हुआ था।

S.O. 2992.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Sahitya Academy, New Delhi and their workmen, which was received by the Central Govt. on the 27-10-89.

#### ANNEXURE

BEFORE SHRI G. S. KALRA, PRESIDING OFFICER,  
CENTRAL GOVT. INDUSTRIAL TRIBUNAL, NEW  
DELHI

I.D. No. 24/87.

In the matter of dispute between :  
Shri Bhagwan Dass,  
C-1, Police Station Lajpat Nagar,  
New Delhi.

Versus

The Secretary,  
Sahitya Academy,  
35, Firozshah Road,  
New Delhi.

#### APPEARANCES :

Shri P. T. S. Ram Murthy—for the workman.

Shri V. K. Khanna—for the Management.

#### AWARD

The Central Government in the Ministry of Labour vide its Order No. L-42012/136/86-D.II(B) dated 26/30th March, 1987 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of Sahitya Academy in terminating the services of the workman Shri Bhagwan Dass junior clerk w.e.f. 9-5-1985 is justified? If not, what relief the workman is entitled to?"

2. There is not much dispute between the parties about the facts of this case. The workman Shri Bhagwan Dass was initially appointed as a temporary junior clerk for a period of six months vide order dated 23-11-1982 which reads as under :

"Sahitya Akademi (National Academy of Letters)  
Rabindra Bhavan, Ferozeshah Road, New Delhi-110601.

Dated the 23rd November, 1982

SA.

#### MEMO

With reference to his interview held on 23-11-1982, Shri Bhagwan Dass is informed that he is appointed temporarily, for a period of six months in the first instance, to the post of Junior Clerk on an initial pay of Rs. 260 p.m. in the pay scale of Rs. 260-6-290-EB-6-326-8-366-EB-8-390-10-400, plus allowances admissible under rules. He will be governed by the rules of the Sahitya Akademi. His service will be terminable during the period without notice and without assigning any reasons. The appointment carries a liability to transfer to any office of the Sahitya Akademi located anywhere in India. His appointment shall be further subject to :—

1. Production of Certificate of Fitness from the competent medical authority.
2. Production of School Leaving Certificate, in original, in support of his date of birth, alongwith attested copy.
3. Production of original certificate of educational and other qualifications alongwith their attested copies.
4. Submission of the attestation form (enclosed) duly completed.
5. Declaration of Home Town in the enclosed form.
6. Submission of character certificate in the enclosed form.

If the above offer is acceptable to him, he may please report for duty immediately.

Sri Bhagwan Dass,  
1st F-50, Lajpat Nagar,  
New Delhi-110024."

S. H. BHATIA, Dy. Secy (Admn).

Sd/-

Thereafter his services were extended temporarily for the further period of six months vide Order dated 21-5-1983 reproduced below :—

"SA. 15/283/2192.

21st May, 1983

#### MEMO

In continuation of Memo No. SA. 15/283/13993 dated 23-11-1982, Sri Bhagwan Dass is informed that his services as a Junior Clerk are extended temporarily w.e.f. 23-5-1983 AN for a period of six months. He will be governed by the rules of the Sahitya Akademi. His services will be terminable during the period without notice and without assigning any reasons.

Sri Bhagwan Dass,  
Junior Clerk,  
Sahitya Akademi,  
New Delhi.

Sd/-

S. H. BHATIA, Dy. Secy (Admn.)

Then followed the order dated 14/15-11-1983 whereby the temporary appointment was extended for one year and the workman was also placed on probation for one year. This order reads as under :

"SA. 15/283/23425

14/15th November, 1983.

#### MEMO

In continuation of Memo No. S.A. 15/283/2192 dated 21 May 1983, Sri Bhagwan Dass is informed that his services as a Junior Clerk are extended temporarily w.e.f. 23-11-83, for a period of one year. He will be on probation for one year w.e.f. 23-11-1983. He will be governed by the rules of the Sahitya Akademi. His services will be terminable during the period without notice and without assigning any reason.

Sd/-

S. H. BHATIA, Dy. Secy. (Admn.).

Sri Bhagwan Das,

Sri Bhagwan Das,  
Jr. Clerk,  
Sahitya Akademi,  
New Delhi."

Then followed order dated 19-11-1984 whereby the probation period was extended by six months and this order reads as under.

"SA. 15/283/24695

15 November, 1984.

#### MEMO

Sri Bhagwan Das, Jr. Clerk, is informed that his work and conduct have left much to be desired. Therefore his probation is extended for six months with effect from 23 November 1984. During this period his services are terminable without giving any notice or assigning any reason. He is directed to permit a daily report of his work through a diary to the Office Superintendent and the Deputy Secretary.

Sd/-

D. S. RAO, Dy. Secy.

Sri Bhagwan Das,  
Jr. Clerk,  
Sahitya Akademi,  
New Delhi."

Lastly followed the order dated 9-5-85 whereby the services of the workman were terminated and this order is also reproduced below :

"SA. 15/203/4352

9th May, 1985.

#### MEMO

Sri Bhagwan Dass, who is on probation, is informed that he has been found unsuitable for holding the post of Junior Clerk, and his services are therefore terminated with effect from the afternoon of today, the 9th May, 1985, vide Bye-law 13 of Sahitya Akademi (Services) Bye-laws.

Sd/-

D. S. RAO, Dy. Secy.

Sri Bhagwan Dass,  
F-1/50, Lajpat Nagar,  
New Delhi-110024."

3. The case of the workman is that in all the above mentioned orders except for the order of termination it was made clear that the workman would be governed by the rules of Sahitya Academy and according to bye law 13 of the Sahitya Academy (Services) bye-laws every person appointed to a post under the Academy after the commencement of these bye laws (came into force on 4-3-1961) whether by promotion or by direct recruitment shall be on probation in such post for a period of one year provided the Appropriate Authority may in any individual case extend the period of probation. Although it was not specifically

mentioned in the order of his initial appointment, yet he was in fact appointed on probation in terms of the aforesaid bye-laws 13 and he completed his period of probation on 23-11-1983 and there was no question of his being placed on probation again on the same post with same duties and responsibilities, after watching his performance for one year and having been fully satisfied about the same. The action of the Management in placing him on probation for the second time on the same post was unjustified, untenable and illegal and it was intended to victimise the workman. That the workman was on probation right from the date of his appointment 23-11-82 further stands corroborated from the fact that he was required to contribute to the Sahitya Academy Contributory Provident Fund and according to Sahitya Academy Contributory Provident Fund Rules 1954 this facility of contribution to the provident fund is not available to temporary employees other than those appointed on probation. It is the further case of the workman that he had served the Sahitya Academy for continuously for a period of 2-1/2 years and his termination amounted to retrenchment but in his case no notice of termination was served upon him nor any salary in lieu of notice period was given to him nor any retrenchment compensation was paid to him and hence the order of termination is in violation of Section 25F of the I.D. Act and void ab-initio. The workman had raised certain other grounds such as order of termination is punitive in character and as no charge sheet had been served on him and he had not been given any opportunity to defend himself, it was in violation of the principles of natural justice and that the order of termination was passed by authority lower in rank and status to his appointing authority and in this way the order of termination was bad in law. However, these grounds were not pressed at the time of arguments.

4. The contention of the Management is that the Sahitya Academy is not an Industry and that the Ld. Govt. Delhi Administration is the appropriate Government and Central Government is not Appropriate Government in this case and for this reason the reference is bad. It may be mentioned here that the question whether the reference is based on the grounds mentioned was treated as preliminary and it was decided vide Order of this Tribunal dated 28-1-1988 and it was held that both the Central Government and the Lt. Governor had the power to make reference of the Industrial Disputes in the Union Territory of Delhi and in the present dispute the Central Government was the appropriate Government and the reference was valid and the Tribunal had jurisdiction. As regards the objection that the Sahitya Academy is not an 'Industry' it was considered by the ALC(C) Delhi and he took the view that as per the interpretation of the Hon'ble Supreme Court, the Sahitya Academy is covered within the purview of Section 2(j) of the I.D. Act. As the Academy is a literary institution and engages itself in the activity of publishing and selling books relating to Indian Literature and this activity of publication and sale satisfies the human wants and requirements. I am inclined to agree with the view taken by the A.L.C. (Delhi) and hold that the activities and functions of the Sahitya Academy meet the triple test of Industry laid down in the authority Bangalore Water Supply and Sewerage Board Versus A. Rajappa and others AIR 1978 Supreme Court 549. Hence it is "industry" within the meaning of section 2(j) of the I.D. Act.

5. Some of the relevant bye-laws of the Sahitya Academy Services Bye-laws are reproduced below :—

#### "Bye-law 13 Probation

- (1) Every person appointed to a post under the Academy after the commencement of these bye-laws whether by promotion or by direct recruitment shall probation in such post for a period of one year. Provided that the appointing authority may in any individual case, extend the period of probation.

(2) Where a person appointed to a post under the Akademi on probation is, during his period of probation found unsuitable for holding that post, or has not completed his period of probation satisfactorily, the appointing authority may :—

(i) In the case of a person appointed by promotion revert him to the post held by him immediately before such appointment;

(ii) In the case of a person appointed by direct recruitment, terminate his services under the Akademi without notice.

(3) Every person appointed to a permanent post under the Akademi by promotion or by direct recruitment shall, on satisfactorily completing his period of probation, be eligible for substantive appointment to that post.

#### 14. Temporary and Permanent Service

(i) if his appointment is made for a specified period on Akademi until he is appointed substantively to a permanent post under the Akademi;

(ii) An employee appointed substantively to any permanent post under the Akademi shall be a permanent employee of the Akademi.

#### 16. Termination of Service.

(1) The service of a temporary employee may be terminated by the Appointing Authority without assigning the reasons;

(i) During the period of probation following the first appointment, at any time without notice, and

(ii) after such period of probation, at any time by a notice of one month in writing given by the Appointing Authority to the employee or at any time without notice on payment of one month's pay and allowances.

(2) Without prejudice to the provisions of clause (1) the service of a temporary employee shall terminate,—

(1) if his appointment is made for a specified period, on the expiry of such period, or

(ii) If his appointment is made against a temporary post, on the abolition of the post or on the expiry of the period for which the post is created.

(3) The service of a permanent employee may be terminated by a notice of three months or on payment of pay and allowances for such period as the notice falls short of three months or without notice on payment of three months' pay and allowances if the post to which he is substantively appointed is abolished.

(4) An employee who is given notice of termination of service under clause (3) may be granted during the period of notice such earned leave as may be admissible to him and where the leave so admissible and granted is more than three months and his services shall terminate on the expiry of such leave."

It is clear from the bye-laws 14 and 16 that a person appointed on probation is included in the category of temporary employee. To put it differently the term temporary employee does not exclude a person appointed on probation. It has not been made clear by the Management that the appointment of Shri Bhagwan Dass was against a temporary vacancy. Nor is it the case of the Management that the post against which the workman appointed had been abolished or the period for which it had been created had expired. Moreover, the fact that the Management later on continued the workman against the same post but included the provision that he will be on probation itself goes to show that the post was of a permanent nature. Once it is found that the post was a substantive one, the bye law 13 comes into operation according to which every person appointed to the post under the Academy

shall be on probation for a period of one year and such period may in individual cases be extended. Rather it appears that as per bye-law 13 even persons appointed against temporary post have also to be on probation. Therefore, it is to be presumed that the workman was appointed on probation initially although it was not specifically so mentioned in the order of appointment. Moreover, according to Rule IV(1) of the Sahitya Academy contributory Provident Fund Rules temporary employees appointed for a limited period or less than 3 years other than those appointed on probation are not permitted to join the fund. The fact that the workman was allowed to join the fund soon after his initial appointment further goes to show that even the Management treated him as on probation. The five orders passed by the Management starting with the appointment of the workman and culminating in his termination which have been reproduced above speak for themselves. The methods adopted by the Management in the case of this workman appear to be extraordinary and not expected in the course of normal official functioning of a public institution like the Sahitya Academy. It appears that the Management first indulged in appointment of the workman on trial basis and then put him on probation and ultimately terminated his services after extending the period of probation, in an illegal manner. The bye-laws do not provide for any such appointment on trial basis nor is it a fair labour practice. Taking into consideration all the circumstances it is held that the workman had completed his mandatory one years probation on 23-11-83 and the action of the Management in placing him on probation for a period of one year w.e.f. 23-11-83 vide order dated 14/15-11-1983 is clearly illegal and unjustified. The Management could have extended his period of probation but could not have placed him on probation afresh.

6. Whether the workman was on probation or in temporary employment would really not make much difference because the Management has admittedly not complied with the provisions of Section 25F of the I.D. Act. It is not disputed that the workman had put in 2-1/2 years of continuous service with the Management and therefore he had sailed into the Protection of section 25-F of the I.D. Act. Even a probationer who completes one years continuous service as defined under section 25-B of the I.D. Act is covered by the provisions of section 25-F of the I.D. Act. In the authority cited as Management of Karnataka State Road Transport Corporation Bangalore Versus M. Boriah and Another and Karnataka State Road Transport Corporation, Bangalore Versus Sheikh Abdul Khader and Others 1984 (1) SCC 244 it was held as under :—

"Labour and Services-Industrial Disputes Act, 1947-Sections 2(oo) and 25-Termination of services of probationer for unsuitability amounts to retrenchment-Non-compliance with Section 25-F in case of such termination—Effect.

#### Held

Section 2(oo) covers every case of termination of service except those which have been embodied in the definition. Therefore, discharge from employment or termination of service of a probationer, would also amount to retrenchment. Compliance with the requirements of Section 25-F in case of such termination is essential. In the present cases however, Section 25-F was not complied with nor was it disputed by the employer-appellant that as a necessary consequence of non-compliance with Section 25-F in a case where it applied the order of termination was rendered void. The High Court was, therefore, justified in concluding that the order of retrenchment was bad."

7. As the termination of the services of the workman is violative of provisions of section 25-F of the I.D. Act, the Order of termination is void ab-initio.

8. As regards back wages it has been contended that the workman has been gainful employment after his termination and, therefore, he is not entitled to any back wages. However the Management has not produced any evidence to prove that the workman has been in gainful employment after his termination. No doubt the workman in his cross-examination as MW1 stated that w.e.f. 9th February, 1989 he is working

with M/s. Wazir Sultan Tobacco Company on commission basis, yet this would not mean that he is gainfully employed even for this period w.e.f. 19th February, 1989. If the workman has stated selling cigarettes on commission basis for M/s. Wazir Sultan Tobacco Company in order to maintain his family, it does not amount to gainful employment because the workman has to somehow maintain his family during his forced unemployment as a result of the illegal termination of his services. In the authority Rajinder Kumar Kindra Versus Delhi Administration through the Secretary (Labour) and others 1984 SC 1805 it was held as under :

"The idea of nineteenth century freedom of contract have lost their appeal to day. Social security is the dominant note of labour law. Law has not stood still. The 'felt necessities of the time' have compelled the courts to abandon the doctrine of 'mitigation of damages' which was the corner-stone of the common law. If a workman is able to keep his body and soul together somehow during retrenchment and reinstatement there is no good reason why he should be denied back wages which logically flow from the declaration of illegal termination of services."

(C) Industrial Disputes Act (14 of 1947), Sch. 2 Item 3-Dismisal of employee for misconduct-Dismisal set aside and reinstatement ordered-Award of back wages-Employee during forced absence for maintaining his family helping his father-in-law in his coal depot and living with him having no other course-Held, that it was not gainful employment-If this could be gainful employment begging by the employee would as well be gainful employment in the circumstances the employee was entitled to full back wages and all consequential benefits."

Hence it is held that the workman is entitled to full back wages.

9. In view of the discussion made above it is directed that the workman shall be reinstated with continuity of service with full back wages and all consequential reliefs of promotion increments etc. The full arrears of back wages shall be paid to the workman within one month of the enforcement of the award alongwith 12 per cent compound interest and if it is not paid within the stipulated period, then future interest @15 per cent p.a. compounded monthly shall be payable to him.

G. S. KALRA, Presiding Officer

13th October, 1989.

[No. L-42012/136/86-D.II(B)(Pt.)]

का. प्र. 2993.—श्रीयोगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार दूरदर्शन नई दिल्ली के प्रबंधन के सम्बन्ध में और उनके कर्मचारियों के बीच, अनुबंध में निर्दिष्ट श्रीयोगिक विवाद में केन्द्रीय सरकार श्रीयोगिक अधिकरण, नई दिल्ली के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 27-10-89 को प्राप्त हुआ था।

S.O. 2993.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Doordarshan, New Delhi and their workmen, which was received by the Central Government on 27-10-1989.

#### ANNEXURE

BEFORE SHRI G. S. KALRA, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,  
NEW DELHI

I. D. No. 128/81

In the matter of dispute between :

Shri Dharam Vir Nanda, Through the General Secretary,  
Doordarshan Programme Staff Union, New Delhi.

Versus

The Director General, Doordarshan, Mandi House, New Delhi.

#### APPEARANCES :

The workman in person.

Shri Narinder Choudhary—for the Management.

#### AWARD

The Central Government in the Ministry of Labour, Government of India, New Delhi vide its Order No. L-42012 (71)/80-D.II (B) dated 21st August, 1981 has referred the following dispute to this Tribunal for adjudication :—

"Whether the action of the management of Doordarshan New Delhi, in not granting Shri Dharam Vir Nanda, Make up Artist, the following benefits of pay fixation, payment of increment etc. is justified? If not, to what relief is Shri Dharam Vir Nanda entitled to and from what date?

1. Fixation of fee scales and regulation of increments with effect from 1-10-64 as per Ministry of I & B Orders No. 13(19)/65-B (P) dated 21-1-65 and 31-3-65 ;
2. Non-rationalisation of fee-scales with effect from 1-4-1971 vide Ministry of I & B Order No. 12(4)/72-B (A) dated 7-2-72.
3. Non-revision and fixation of fee scales as done for staff artists on T.V. side of AIR as per Ministry of I & B Order No. 6/150/65 TV dated 8-3-68.
4. Non-revision of fee scales on the analogy of IIRD Pay Commission with effect from 1-1-73 as per Ministry of I & B Order No. 5/99/74-TV dated 8-3-77.
5. Discrimination in grant of selection grade sanctioned vide Ministry of I & B Order No. 509/17/77-TV dated 11th November, 1977.
6. Non-extension of contract upto age of 58 years sanctioned vide Ministry of I & B Order No. 507/14/78-TV dated 9-2-79.
7. Non-removal of anomaly in converting the existing grade of Rs. 650—1200 as done in case of script writers of TV vide Ministry of I & B Order No. 5/99/75-TV dated 2nd September, 1978.
8. Non-creation of Civil Post in the Doordarshan of appropriate to the category as per Ministry of I & B Order No. 13/8/68-B (P) dated 22-10-60.

2. This is one of the most unusual cases wherein the Management of Doordarshan has failed even to grant a proper fee scale and fixation of fee as per Government orders to one of its employees during his 28 years of employment/service with the Doordarshan. As a result, the workman not only received partial monthly wages but was often paid wages in the form of arrears at a depreciated value of rupee, as well as remained without a promotion inspite of high academic qualifications, an all round experience and with no complaint ever about his job performance or efficient functioning. He continues even today on the same post he was appointed in 1961 in Doordarshan, which is quite unfortunate as Doordarshan is a fast expanding media establishment and in fact has expanded manifold during the last few years.

3. Peculiar circumstances related to the inception of Television in India and brief facts of the workman's case are as under :—

The new wing Television was created by the Ministry of Information and Broadcasting, Government of India, in September 1959 as a part and parcel of All India Radio, having the same designation/categories of posts, same fee ranges (prior to 1-10-1964) or fee scales (introduced w.e.f. 1-10-1964) as well as the same service and working conditions for Staff Artists of both Television and A.I.R., employed on contract basis. So much so the staff in specialised categories engaged to perform highly skilled/specialised nature of jobs viz. Camera handling, film editing, makeup work, sound recording etc. were employed against the same categories of posts in the same fee ranges



as then prevailed in All India Radio viz. Producers, Assistant Producers or Production Assistants. The Management has admitted in this regard that distinct categories of posts and their fee scales had not developed on TV side of AIR. The television Staff Artists were appointed to assist in the planning and production of various programmes and their assignments were not fixed and were changing from time to time. The designations were all vague and in the service contract of the workman also, he is designated as a Staff Artist only. Also, as the post of Make up Artist was not separately sanctioned in TV, it was equated to the post of Assistant Producer in 1966 and the notified scale of Rs. 280—575 was prescribed for all subsequently appointed Makeup Artists.

D.G. A.I.R. was then the Administrative Head of the Department of AIR which then included television also. Television continued to be part of AIR from 1959 to 31-3-1976 and during these years no recruitment rules were formulated for various categories of Staff Artists. The posts of Staff Artists were all ad-hoc posts meant to carry out the assignments given by their superiors from time to time which were overlapping and changeable.

Television was a new medium with special requirements of its own. Trained personnel were not readily available. Since TV was evolving, staff had to be recruited to meet the immediate needs of the service. Persons were thus engaged on higher starting fee depending upon their qualifications, experience or utility to the service. D.G. AIR was empowered to employ Staff Artists on any fee upto Rs. 700 P.M. to carry out various assignments which were mostly verbal, changeable and over-lapping. It was in such circumstances that the workman was recruited in Television Unit in 1961 and performed different duties as and when assigned to him.

4. The case of the workman, in brief, is as under :

(1) He was appointed after proper selection by the Director General, All India Radio and joined Doordarshan Kendra on 1-9-1961 as a Staff Artist (Make up Artist) on a probation of 3 months. In accordance with the policy of the Management and to maintain parity with his predecessor Make up Artist, Smt. K. E. Madan Mohan as well as having regard to his qualifications, experience and performance on the job as a casual w.e.f. 1959 to 1961, the workman was promised as initial consolidated fee of Rs. 400 p.m. but was illegally paid Rs. 250 (consolidated) w.e.f. 1-9-1961. He was thereafter employed on a 3 years Staff Artist contract w.e.f. 1-1-62 on a revised monthly fee of Rs. 275 (consolidated), instead of Rs. 400 (consolidated) as promised. The 3 years contract was accepted under coercive circumstances as before revising his fee from Rs. 250 to Rs. 275 (consolidated) the workman was made to resign his previous regular and permanent civil post in Central Statistical Organisation, Cabinet Secretariat, at the instance of the Management, but still not paid promised fee of Rs. 400 per month. The workman was also not paid his salary for 10 months prior to the offer of the 3 years Staff Artist contract w.e.f. 1-1-62. He was in the circumstances coerced and had no option but to sign 3 years Staff Artist contract on Rs. 275 (consol) to enable him to get his held up monthly wages. The 3 years Staff Artist contract w.e.f. 1-1-62 (Ex. W-8) was retrospectively offered in October, 1962 which is clear from the contract itself. The workman, however, continued representations against the arbitrary lower starting fee.

(2) The Government of India, Ministry of I & B introduced for the first time regular incremental fee scales w.e.f. 1-10-64 for Staff Artists of AIR, which then included T.V. also, vide their Orders No. F. 13(19)/63-B. (P) dated 21-1-1965 and 31-3-65 (Ex. W-9 and W-10). These orders superseded all previous orders of the subject and replace the consolidated fee ranges, in which staff Artists were earlier appointed,

with incremental fee scales. No scale was formulated/prescribed for the workman or his category in the Annexure to the Ministry's orders dated 21-1-65 and thus he continued languishing on partial consolidated wages even when all other Staff Artists of AIR/TV were brought over to the incremental fee scales w.e.f. 1-10-64, the notified date in the Ministry's order itself (W-9 and W-10). This was a grave omission on the part of the Employer which should have been rectified by prescribing an appropriate fee scale for the workman out of the Annexure to the Ministry's Order dated 21-1-65. Instead, his case for proper fixation of fee and fee scale and regulation of increments remained undecided for many years and the workman was paid adhoc partial wages, against which he continued to represent and protest.

(3) Even after a notified fee scale was prescribed for Make up Artists in 1966 by equation of posts, the workman was not granted the same scale even in 1966 and continued on partial wages. The details with regards to the equation of posts implementation of orders etc. are that prior to the introduction of incremental fee scales, another post of Staff Artist, (Make up Artist) was advertised in December, 1964 in consolidated fee range of Rs. 300—600. One Shri Ashok Srivastava was selected and appointed against this post on 1-6-66 i.e. much after the scales were introduced. Since no scale was formulated/prescribed for the post of Make up Artist in the Annexure to the Ministry's order dated 21-1-65, the post of Make up Artist was equated with the post of Assistant Producer in AIR/TV in the notified scale of Rs. 280-20-400-25-5/5. Shri Srivastava was given this scale. He was also given a higher initial start of Rs. 340 (basic) corresponding to Rs. 500 including the allowances w.e.f. the date of his appointment on 1-6-66. Even at this stage, the same scale of Rs. 280—575 was not given to the workman. (It is to be noted that the scale of 280—575 was subsequently abolished and merged automatically with Producer's scale of 500—800 in TV w.e.f. 1-4-71).

(4) Ultimately, the Director General, A.I.R. decided the workman's case vide his order dated 25-5-70 (Ex. W-3). The Director General retrospectively granted the promised fee of Rs. 400 to the workman w.e.f. 1-1-65 (instead of 1-9-1961—the date of workman's appointment) and allowed "annual increments of Rs. 25 and allowance admissible to him in terms of the Ministry's order dated 21-1-65 (Ex. W-9). Though the D. G. referred to the Ministry's order yet did not prescribe any fee scale at all.

(5) Pursuant to the Director General's order dated 25-5-70 (Ex. W-3), the Director, Television Centre, issued an order dated 15-6-70 (Ex. W-17) wherein he (on his own) added the scale of Rs. 300-25-600 which was neither chosen from the Annexure to W-9 nor granted from the notified date of 1-10-64. The workman was also given a fresh contract w.e.f. 1-1-65 (instead of endorsing the original contract) which was accepted by the workman under protest (Ex. W-18). His fixation of fee and regulation of increments was also not done in conformity with Ministry's order dated 31-3-65. Though the scale of Rs. 300-25-600 was higher than the scale given to Shri Srivastava, yet it was neither one of the approved or standard scales in AIR/TV/Government of India nor existed in the Annexure and thus a non-existent fee scale.

(6) The Management, however, did not implement its own order in Memo dated 15-6-70 (Ex. W-17) in its entirety as the Management stopped drawing increments after 1-1-71 when the workman's fee was at Rs. 550 basic as well as did not draw arrears from 1-1-65 to 1970 as per its own order dated 15-6-70 (Ex. W-17). Increments were not drawn for another 5 years and the workman stagnated till 1975 at Rs. 550 (basic) for no fault of his.

(7) When numerous representations failed to move the Management to draw/release increments and Pay arrears, the workman filed LCA No. 149/75 under Section 33-C (2) of the I. D. Act, 1947 in the Central Government Labour Court, New Delhi.



tation of monetary benefits as per Director's order dated 15-6-70 (Ex. W-17). The Labour Court computed arrears amounting to Rs. 250,810 vide its orders dated 28-2-76 and 4-5-76, passed on admitted facts by the Management. The Management still did not pay this amount but moved a Review Petition in the Form of LCA 216/76 and then Writ Petition which were dismissed in 1978 and in 1980 respectively. The Management filed yet another CMP No. 1466 in 1980 thereby seeking time to make payment of the computed amount, a notice of which was also served on the workman. This was also dismissed after appearance of parties. In the Misc. Petition, the Management admitted to pay the decretal amount in full but still did not pay it. Ultimately the said amount was recovered after attachment of Management's property by the Collector of Delhi in September, 1980 and paid to the workman in 1981.

- (8) The workman further contends that the management further revised the fee scales of Staff Artists vide its order dated 8-3-68, and implemented w.e.f. 1-3-68 which is the subject matter of Issue No. 3 in the reference.

This revision was based on recommendations of the Mullick Committee (Ex. W-31) whereby the work in Doordarshan was held to be more strenuous and complicated than the work in A.I.R.

The workman alleges that the category of Make-up Artist was not separately considered by the Mullick Committee because the post of Makeup Artist had already been equated to the post of Assistant Producer in 1966 and that the Chairman of the Mullick Committee was the same person who as Deputy Director General had earlier processed the case relating to equation of the two posts as above. Therefore the necessity of re-considering the case of Make up Artist was not felt by the Mullick Committee because this category of Makeup Artists had already been equated for all practical purposes with the post of Assistant Producers.

It is also alleged by the workman that his case for fixation of the fee scale etc. was still pending when the order dated 8-3-68 for revision on TV side was issued. In this way the workman was neither granted regular incremental fee scale w.e.f. 1-10-64 nor a revised fee scale w.e.f. 1-3-68. As stated above the case of the workman was decided by the Director General, A.I.R. only in 1970 w.e.f. 1-1-65 (instead of 1-9-61 or 1-10-64 a notified date in Ministry's order dated 21-1-65).

- (9) Next issue related to the rationalisation of Fee scales of Staff Artists w.e.f. 1-4-71 vide Ministry's Order dated 7-2-1972 (Blue Book) admittedly applicable to TV Staff Artists also. The aim of rationalisation was to reduce the multiplicity of fee scales of Staff Artists and to bring them in line with the standard scales of regular government servants. To achieve this purpose, various categories of Staff Artists were re-grouped and to bring them in line with the standard scales of regular Government servants, their fee scales were revised upwards. The case of the workman in this respect is that his non-standard scale of Rs. 300-25-600 was not rationalised. The workman contends that all the Staff Artists holding Assistant Producer's scale of Rs. 280-575 were automatically upgraded and fitted to Producer's scale of 500-800 w.e.f. 1-4-71. Therefore, the workman claims rationalisation of his non-standard fee scale and then grant of higher revisions on the basis of equality and parity with others. This grievance of the workman relating to the rationalisation of his fee scale w.e.f. 1-4-71 is covered by issue No. 2 in the Reference.

- (10) Next grievance of the workman relates to revision of his fee scale w.e.f. 1-1-73 by virtue of the Recommendations of the Third Pay Commission. The cases of Staff Artists were not directly considered by the IIIrd Pay Commission being on contract. Their scales were thus revised on the analogy of

IIIrd Pay Commission's recommendations for regular Government servants, vide Ministry's order dated 8-3-77 (Ex. W-33). The workman contends that since rationalisation of his fee scale was not done w.e.f. 1-4-71, the revision of his fee scale w.e.f. 1-1-73 on the basis of the analogy of IIIrd Pay Commission was not properly done by the management. The case of the workman is that had proper rationalisation preceded before applying the analogy in the case of the workman, he would have been given the revised fee scale of at least 650-1200. Thus the revision of his pre-revised non-standard scale of Rs. 300-25-600 to the revised scale of Rs. 550-900 w.e.f. 1-1-73 was based on wrong analogy of the IIIrd Pay Commission. The workman further contends that the revision shown in the order dated 8-3-77 was totally improper and that he had not opted for it. The workman further contends that the management on its own rather presumed the option of the workman and wrongly ordered the fee scale of Rs. 550-900 w.e.f. 1-1-73. Surprisingly the order of revision (Ex. W-37) w.e.f. 1-1-73 was issued after 5 years of Ministry's order dated 8-3-77 (W-33) in March, 1983 during the pendency of the present Industrial Dispute. The order was not accepted vide workman's application dated 25-4-83. In this respect the workman is relying upon Ex. W-36 which is D.G.'s order dated 11-5-82 and Ex. W-34, which is the form of option by the workman dated 18/29-6-77 wherein the scale of Rs. 550-900 is not mentioned and is also conditional.

- (11) Next issue is related to the removal of anomaly in converting the existing fee scale of Rs. 300-25-600 to the IIIrd Pay Commission's fee scale of Rs. 650-1200. The workman contends that due to faulty application of analogy, several anomalies and disparities crept in the order dated 8-3-77 which were recognised by the Government of India and hence an anomaly Committee was set up vide Ministry's order dated 23-7-1977 (Ex. 39). The workman contends that whereas in the case of Script Writers the anomaly in the Ministry's order was removed when their existing scale of Rs. 235-400 was converted to Rs. 550-900 after issuing a Corrigendum dated 2-9-77 (Ex. 40) the case of the workman was not even referred to the Anomaly Committee for the reasons best known to the Management. To illustrate his contentions, the workman has pointed out that while in the case of Musicians etc. their existing scales of Rs. 245-555 and 215-540 were revised to Rs. 650-1200 yet the comparatively higher pre-revised scales of Makeup Artists Viz. 280-575 and 300-25-600 were arbitrarily and illegally revised to only Rs. 350-900 which should have been in fact given the same revised scale of Rs. 650-1200 or may be still higher scale. This grievance of the workman relating to the non-removal of anomaly vide Ministry's order dated 8-3-77 implementing the IIIrd Pay Commission's recommendations for the workman is covered by Issue No. 7.

- (12) The next grievance of the workman relates to the grant of Selection Grade which is covered by Issue No. 5 of the Reference. The workman claims selection grade w.e.f. 1-8-76. It was on the principles and guidelines laid down by the IIIrd Pay Commission that the Management sanctioned Selection Grades for various categories of Staff Artists in Television vide Ministry's order dated 11-11-77 (Ex. W-41). Under the guidelines there were two criteria for the sanction of selection grades Viz. (1) where the posts are filled by direct recruitment and (2) where there is acute stagnation. The workman satisfied both the criteria. He was directly recruited as a Make Up Artist in the year 1961. He had also been clearly stagnating at the maximum in the scale of Rs. 300-25-600 since 1-1-73. The workman thus became naturally entitled to the Selection Grade w.e.f. 1-8-76 under the guidelines laid down in the above mentioned Government orders. In spite of this the Management did not grant selection grade to the workman. No stagna-

tion increments were also granted. There were no promotional avenues in the category to which the workman belongs.

- (13) Yet another issue referred to this Tribunal is the non-creation of Civil Post as per Ministry's order dated 22-10-1960 as was done in the case of many others. The workman contends that under the Ministry's order it was obligatory for the Management to create a civil post of appropriate status in lieu of Staff Artist post for the concerned workman w.e.f. 1-9-1961 as was done in the case of many other Central or State Government servants selected for appointment as Staff Artists in A.I.R. (The Management contends that the provision was conditional. But in view of the order issued in the case of Shri Kishori Lal (Ex. W-6D) it is clear that the management's contentions are not correct because in his case the Civil Post was created without any limit or conditions whatsoever. The matter is, however, dealt with appropriately under the relevant issue.)

- (14) Another issue relates to the extension of workman's contract upto the age of 58 years vide Ministry's order dated 9-2-1979 as done in the case of all other Staff Artists. The Management has since filed a copy of the order dated 20-4-1983 (Ex. W-47) regarding extension of workman's contract thereby clearly admitting the issue under reference. This is dealt with in detail under the relevant issue in the Reference.

5. Thus on the basis of above mentioned facts, circumstances and submissions, the workman contends that he has been victimised, discriminated and harassed in a deliberate and calculated manner by the Management for his legitimate trade union activities. He has not only been deprived of the benefits of various Government orders but has also been made to suffer monetary hardship and loss in career prospects for no fault of his which is clearly admitted by the Director General, AIR vide his order dated 25-5-1970 (Ex. 3).

6. The Management has raised preliminary objection that the petition is not maintainable because they are not running an 'Industry' within the meaning of S. 2(g) I. D. Act, 1947 and the contention of the petitioner that the respondent is 'Industry' is not in accordance with the law contained in the Industrial Disputes Act, as amended upto date, because there are several Writ Petitions pending before the Hon'ble High Court of Delhi on the legal pleas that the Respondent is not an 'Industry' which the Hon'ble High Court is yet to decide. Also, there is no direct authority holding the Respondents to be 'Industry'.

7. On merits, the Management contends that the workman was appointed as a Staff Artist on 3 years contract w.e.f. 1-1-62 and not on 1-9-1961 as stated in the claim of the workman. He was given a monthly fee of Rs. 275 (consolidated) w.e.f. 1-1-62. The Management has not denied specifically the claim for promised initial fee of Rs. 400 to the concerned workman at the time of his selection in 1961. Instead the Management has stated that there was a contract between the concerned workman and the Respondent as a result of which his claim for higher pay or pay scale or remuneration will contravene it. Also there is no allegation or assertion by the Petitioner that the said contract was not legally made.

With regard to creation of Civil Post in lieu of the Staff Artist post for selected Central or State Government employees the Management's case is that under the Government instructions the Civil Post was intended to be created to grant continuity of service to the concerned person in case he wanted to revert back to his parent Civil Post. Normally the post was created for 2 years to enable them to decide whether they wish to revert back to the parent Civil Post or wished to continue as a Staff Artist.

With regard to the introduction of incremental fee scales w.e.f. 1-10-1964 vide Ministry's order dated 21-1-65 and 31-3-1965 (Ex. W-9 and W-10) the Management contended that these orders did not cover Staff Artists on Television side of A.I.R. which was still in the developing stage and distinct

categories and their fee scales had not yet developed. The Management has further stated that in the absence of an incremental fee scale for the Make up Artists in the above mentioned orders, the fee scale of Rs. 280—575, an approved fee scale in the Annexure to the Ministry's order dated 21-1-65 (Ex. W-9) was considered for Makeup Artists. But in the case of the workman a higher incremental fee scale of Rs. 300-25-600 was given w.e.f. 1-1-65 with starting salary of Rs. 400. This scale was without the approval of the Competent Authority. However, the scale of Rs. 300-25-600 once having been given was subsequently treated personal to the concerned workman and was not reduced even when other Make up Artists were later on given the junior scale of Rs. 280—575 i.e. of Assistant Producers.

The Management further contends that there is no category like Makeup Artist Senior or Makeup Artist Junior and therefore the petitioner cannot claim that he is Makeup Artist Senior. In the establishment there were only the posts of Makeup Artists to which fee scales of Rs. 280—575 and Rs. 300-25-600 were given under certain circumstances. The Management further states that no doubt the workman is senior among Makeup Artists but he has no claim for higher fee scales. It is also the case of the Management that all posts of Makeup Artists were subsequently sanctioned in the fee scale of Rs. 280—575.

With regard to further revision of fee scales for T.V. Staff Artists vide Ministry's order dated 8-3-68 the Management has conceded that the fee scale for the category of Makeup Artists was absent in the above noted orders.

Further with regard to the rationalisation of fee scales w.e.f. 1-4-1971 vide Ministry's order dated 7-2-72 the Management contended that these orders were not applicable to Staff Artists on T.V. side of A.I.R.

With regard to the revision of fee scales for Television Staff Artists w.e.f. 1-1-73 on the analogy of IIIrd Pay Commission, the Management has contended that the 3rd Pay Commission did not consider the fee scales of TV Staff Artists. The Government on its own granted revision on the analogy of IIIrd Pay Commission for regular Government servants and decided to revise the fee scales of TV Staff Artists w.e.f. 1-1-73. The scale of Makeup Artists was revised to Rs. 550—900 and the workman opted for this scale, and accepted the scale of Rs. 550—900. The Management has also contended that the scales were revised taking into account the duties and responsibilities attached to each category of Staff Artists.

With regard to other issues referred to this Tribunal, the Management has not specifically denied the claims of the workman.

8. Both the workman as well as the Management filed their Affidavits in evidence. The workman filed his own Affidavit and appeared as the only witness whereas the Management filed an affidavit through Shri G. K. Mohanty, Deputy Director of Administration who also appeared as the Management's only witness. The workman also filed documents Exhibit No. 1 to 47, relying mostly on the documents filed by the Management as Annexures or otherwise on demand by the workman. Shri Mohanty was cross examined on 24-3-1987 and on 26-5-87. He also stated in his Cross-examination on 24-3-1987 that the statement made by him in his cross-examination in LCA 148/83 on 27-5-1986 may be read in this case also.

9. Before entering into discussion of specific issues, I would like to deal with the Preliminary Objection taken by the Management relating to the maintainability of the present reference. The Management contends that the Respondent is not 'Industry' within the meaning of Sec. 2(j) of the Industrial Disputes Act, 1947 on the plea that the Respondent Employer provides services mainly to educate and entertain people; to disseminate knowledge and information to the people at large; to broadcast/telecast cultural & other programmes which cannot be described as Industrial services. On this plea the Management contends that the reference is not maintainable. While the Management has not produced any document or evidence in support of its pleas, the workman has filed many documents and produced evidence to

counter the contentions of the Management. However, a similar objection had been raised earlier also by the Respondent Management in the previous LCA No. 149/75 filed by the concerned workman against the Management of Doordarshan in 1975. Doordarshan then being part and parcel of All India Radio had the same organisation, same staff structure and performed similar service functions as A.I.R. As the Department was engaged in a systematic activity depending upon the cooperation between the Employer & Employees to provide material services to the community at large, the preliminary objection of the Management was then rejected by this Court vide order dated 28-2-76 (Ex. W.23). Against this order, the Management itself had then filed a Review Petition in the form of LCA No. 216/76 (after the separation of Doordarshan from A.I.R. on 31-3-76) thereby clearly admitting Doordarshan to be 'Industry'. On failure of the Review Petition, a Writ Petition No. 895/80 was filed by the Management in the Hon'ble Court of Delhi in 1980 against the order dated 28-2-76 which having been dismissed the order dated 28-2-76 holding A.I.R. (which include T.V. also) to be 'Industry' became final.

The workman has relied upon a decision of the Division Bench of Madhya Pradesh High Court in the case of Management of All India Radio, Chattarpur Vs. Presiding Officer, Central Govt. Industrial Tribunal-cum-Labour Court & another (1987/54) FLR page 58). In that case also the Management of AIR had raised a preliminary objection on the same lines. After thoroughly considering the contentions of the parties and relying upon the leading judgment of Hon'ble Supreme Court of India in the case of Bangalore Water Supply Vs. A. Rajanna (1978 (36) FLR 266 SC) their Lordships held A.I.R. to be 'Industry'. A similar view has been taken by a Division Bench of the Central Administrative Tribunal (Principal Bench) New Delhi in the case of Kundan Singh Vs. Union of India & another, in its judgment delivered on 5th March, 1987 holding AIR to be Industry.

In spite of all this preliminary objection was again raised by the Management in another subsequent LCA No. 148/83 which was rebutted by the workman by filing many documents and by providing elaborate evidence against the Management's contentions on the similar lines as above. The workman had placed reliance on the Bangalore Water Supply case (supra) to show that Doordarshan satisfies the triple test laid down in this case. Also, it was shown that Doordarshan has been progressively engaging in and enlarging the commercial activities thereby earning revenue worth crores of rupees. Its functions cannot be termed as Sovereign functions of the State. Accordingly the Management's objection was held to be meaningless and thus rejected.

It is a matter of record that Doordarshan was brought into existence as part & parcel of A.I.R. in the year 1959 and continued to be so till 31-3-1976. Since both A.I.R. and Doordarshan perform more or less similar functions, I have no hesitation in holding Doordarshan also to be 'Industry' within the meaning of Sec. 2(j) of the Industrial Disputes Act 1947 on the basis of triple test laid down by their Lordships of the Hon'ble Supreme Court of India in the case of Bangalore Water Supply case (supra) which Doordarshan fully satisfies. In view of the aforementioned decisions the preliminary objection raised on the same lines by the Respondent Management in its Written Statement is without any merit and is hereby rejected.

#### ISSUE NO. 1

10. Now turning to Issue No. 1 in the Reference which relates to the fixation of fee scale and regulation of increments w.e.f. 1-10-1964 as per Ministry's of I & B order No. 13(19)65-B(P) dated 21-1-65 and 31-3-65 (Ex. W.9 & 10). Connected with this issue is the issue of initial fixation of fee of the workman right from the date of his appointment on 1-9-1961, which is dealt with first as under :

The case of the workman is that when he joined the service of the Management after proper selection on 1-9-1961, he was promised an initial consolidated fee of Rs. 400 per month on the basis of parity and equality with his predecessor, Mrs K. E. Madan Mohan, who was earlier working on the same post and was getting Rs. 400 per month (consoli-

dated). It was in view of the experience, qualifications and parity with his predecessor that the workman was promised this initial consolidated fee of Rs. 400 per month. But after the workman was sent the offer and relieved from his parent department in Central Statistical Organisation, where he was holding a regular civil post, in quasi-permanent capacity, he was not given the promised initial fee of Rs. 400. Instead he was given a lower starting salary of Rs. 250 w.e.f. 1-9-1961 which was revised to Rs. 275 (instead of Rs. 400 as promised) consolidated w.e.f. 1-1-62 at the time of offering 3 years Staff Artist contract. The workman had to accept the contract as offered under coercive circumstances as under :

The workman was asked to resign from the Civil Post in his parent office in C.S.O. vide Management's letter dated 28-11-61 (Ex. W.2) so that the staff artist contract of 3 years could be given to him. It is not disputed that the workman was not paid his wages for 10 months w.e.f. 1-1-62 to October 1962 i.e. after his resignation from the parent Civil Post had been accepted. It is a matter of record that the 3 years Staff Artist contract w.e.f. 1-1-67 was retrospectively offered in October 1962 which is clear from the contract itself (Ex. W.8). In the circumstances when the workman had already resigned from the previous post and was not getting any wages from the Management the workman was clearly compelled under the force of circumstances to accept and sign the 3 years Staff Artist contract as offered so that he was able to draw his held up wages for 10 months. However the workman kept on representing against the lower start of Rs. 250 or Rs. 275 (instead of Rs. 400 as promised).

That the representations of the workman were ultimately considered by the D.G. AIR, who after examining and appreciating the entire service record of the workman, his qualifications, experience as well as scrutinising the record pertaining to Management's promise of Rs. 400 to the workman from the very beginning, decided his case vide his order dated 25-5-1970 (Ex. W.3).

The Director General AIR, which was the Head of Department and the Appointing Authority in the case of the workman admitted the promise of Rs. 400 to the workman vide his letter dated 25-5-70 (Ex. W-3) on the basis of 3 facts, namely:

- "(i) that his predecessor was given a starting fee of Rs. 400 (consolidated);
- (ii) this fee was promised to him and
- (iii) Shri Ashok Srivastava who had been established junior to him, was given a starting fee of Rs. 340 plus allowance w.e.f. 1-6-1966."

In the same order the Director General has also observed that the workman's fee remained static since 1962 and there was no doubt that he had been put to hardship for no fault of his. He further observed that the time taken in disposing of various representations of the workman had also adversely affected his prospects of promotion and advance in career.

Therefore considering all these factors the Director General of AIR considered it only fair to allow to the workman Rs. 400, as promised but for reasons best known to him changed/alterd the date of implementation of the promise to 1-1-1965 instead of 1-9-1961, the date of workman's appointment.

The promise of Rs. 400 (consolidated) as an initial fee on the basis of parity is however self evident from the Director General's order dated 25-5-1970 as well as from the pleadings/evidence of the Management and other record of the case.

The promise of Rs. 400 as an initial start is further confirmed by the Management's witness, Shri G. K. Mohanty, Deputy Director of Administration, vide his Cross Examination dated 24-3-1987, who has categorically/clearly admitted that the workman was promised Rs. 400 (consolidated) w.e.f. 1-1-1962. Shri Mohanty has, however, stated that the record relating to the workman prior to 1-1-1962 is not available, thereby tacitly admitting the contention of the workman regarding promise of Rs. 400 w.e.f. 1-9-1961.

However, the Management's witness Shri G. K. Mohanty, who appeared before this court in a connected case in the form of LCA 148/83 has admitted in his Cross-examination that the workman was appointed in T.V. w.e.f. 1-9-1961.

Further with regard to the date of appointment of the workman, the contents of Ex. W1 and W2 are referred which clearly show that the workman was appointed in Television on 1-9-1961. Ex. W1 is a letter dated 31-8-1961 written by workman's parent office to the Management of T.V. Unit, A.I.R. informing them that the workman had been relieved of his duties w.e.f. 1-9-1961 (forenoon) to join the post of Staff Artist, Makeup Artist in the office of Research Engineer, Experimental Television, All India Radio, New Delhi. Similarly Ex. W2 is a letter dated 28-11-1961 from the Management to the parent office of the workman which further confirms that the workman had joined the Television Unit, A.I.R. on 1-9-1961. Further, Ex. W12 which is a letter dated 4-7-1981 from the Director Doordarshan Kendra to the Director Personnel in the Directorate of Doordarshan, clearly shows that the workman had been engaged w.e.f. 1-9-1961.

Thus it is clear from the foregoing that the workman was promised a consolidated fee of Rs. 400 w.e.f. 1-9-1961 at the time of his selection and the same was denied to him by the management without any reason or justification or any fault on the part of the workman. It is also not denied that the workman had to resign from a regular civil post in Central Statistical Organisation because of the allurements and promise made by the Management of Television to give him a higher initial start, definitely not less than what his predecessor was getting in the same post in the same organisation.

It is inexplicable as to why this promise of initial start of Rs. 400 was not granted to the workman w.e.f. the date of his appointment in TV on 1-9-1961. This is a serious lapse on the part of the Management which has affected the complete service career of the workman who had devoted his youthful and precious years together for evolving and developing the establishment of Television which was in its rudimentary stage when the workman joined it in 1961. It is surprising that inspite of admitting the factum of promise by the D.G. as well as DTC the workman was not given the initial start of Rs. 400 (consolidated) w.e.f. 1-9-1961 and instead was granted this w.e.f. 1-1-1965 for which there is no justification whatsoever.

As is evident from DG's own order dated 25-5-70 as well as from other record of the case that the workman was promised an initial fee of Rs. 400 (consolidated), the amount being paid to the workman's predecessor appointed against the same post as workman. Therefore, I hold that the workman is entitled to this fee of Rs. 400 (consolidated) w.e.f. 1-9-1961 and not from 1-1-65, as ordered.

Related with the Issue of initial fixation of consolidated fee of Rs. 400 w.e.f. 1-9-1961, is the issue of fixation of proper fee scale for the workman w.e.f. 1-10-1964 under Presidential order dated 21-1-1965 (Ex. W.9) and regulation of increments etc. under the other Presidential order dated 31-3-1965 (Ex. W.10).

It is not disputed that all the Staff Artists of A.I.R. and Television holding Staff Artist contract as on 30-9-1964 were brought over to the incremental fee scales (which replaced the consolidated fee ranges earlier prescribed for all the Staff Artists) as notified and listed in the Annexure to the Ministry's order dated 21-1-1965 as above, which were made effective/applicable w.e.f. 1-10-1964, a date specified in the order itself (W.9).

As per the order dated 21-1-1965 (Ex. W.9) the President was pleased to decide that the scales of fee of Staff Artists will be as given in the Annexure to this letter. It was also decided to extend these revised scales of fee to all existing Staff Artists w.e.f. 1-10-1964. The manner in which Staff Artists were to be brought on to these scales was provided in a subsequent order dated 31-3-1965 (Ex. W.10). According to the 2nd Order the President was pleased to decide that the initial fixation (in the prescribed scales) of fee of those

Staff Artists who were on contract as on 30-9-1964 and who opted for the prescribed scales, were to be regularised as per the principles laid down in the order itself. That is, (a) if an employee had rendered as on 30-9-1964 service not exceeding 18 months, his initial fee was to be fixed at the stage in the time scale corresponding to the existing fee; (b) However, if an employee had rendered more than 18 months service as on 30-9-64 he was to be additionally given the benefit of one increment at the time of fixation of his pay w.e.f. 1-10-1964.

With regard to the regulation of increments, para 2 of the above said order further stated that the next increment was to be given either on completion of the requisite period of service in the prescribed scale from 1-10-1964 or on completion of three years of service including the service under the existing contract, whichever is earlier. Increments thereafter will be admissible under the normal rules.

As the workman had also completed 3 years of service as on 30-9-1964 being appointed on 1-8-1961 in Television and so was entitled to additional increments as on 30-9-64 for fixation of his initial fee on 1-10-1964.

The case of the workman in this regard is that proper fee scale has not been finalised for him till date as per the Annexure to the Ministry's order dated 31-1-1965. On perusal of the pleadings, Affidavits as well as evidence and other record of the case, it is clear that the workman has not been prescribed any scale from the Annexure w.e.f. 1-10-1964 which is a notified date in the order dated 21-1-65 itself. Also, the admitted position with regard to the post of Makeup Artist is that no scale has been prescribed or formulated in the Annexure to the Ministry's order dated 21-1-65. Obviously it was a grave omission on the part of the Management which has not been rectified till date. Thus on account of the Management's lapse the workman's case remained undecided for years thereby causing him undue hardship besides recurring loss. The facts of the workman's case are systematically enumerated above which are further strengthened by Management's own letter dated 4-7-1981 (Ex. W.12) which is a letter written by the Director, Doordarshan Kendra, who was the head of the Kendra and day to day incharge of the workman's performance of duties etc., to the Director (Personnel) in the Directorate General of Doordarshan, relevant portion of which is extracted as under:—

- (i) ..... "When Government of India, Ministry of I & B vide their letter No. F. 13(19)63-B(P) dated 21-1-65 revised the fee scales of various categories of Staff Artists w.e.f. 1-10-1964, there was no mention of the category of 'Makeup Artist' or the revised fee scale prescribed for the Makeup Artist in particular. This itself was a grave omission. It is therefore evidence that no revised scale as such was introduced/formulated for the post of Makeup Artist against which Shri Nanda had been engaged w.e.f. 1-9-1961.
- (ii) It was only in the year 1970 a scale was prescribed for the post of Makeup Artist (Sr.)-300-25-600 and the Directorate issued instructions to fix his fee at the stage of Rs. 400 w.e.f. 1-1-65 vide D.G. A.I.R. D.O. No. 1/50/DVN/63-S./VIII dated 27-5-70. In fact an appropriate fee scale could have been prescribed and made applicable to Shri Nanda w.e.f. 1-10-1964 itself as was done in respect of other Staff Artists.

In March '65, Ministry of I & B issued further instructions vide their letter No. F. 13(19)/631B(P) dated 31-3-1965 for the initial fixation of fee of Staff Artists who were on contract as on 30-9-64. These instructions do not appear to be made applicable in respect of Shri Nanda.

When Shri Nanda's fee was fixed in the fee scale of Rs. 300-25-600 as per Directorate's instructions stated above, the case was referred to the A.G.C.R. for pre-audit/approval according to the then prevalent procedure. A.G.C.R. raised objection with regard to the non-introduc-

in the scale of 280—575; (vi) the workman was given higher scale of Rs. 300—25—600, which he held for more than 18 years, before claiming it to be non-existent or unapproved by Management. The Management also supported workman's case for keeping him a step higher than other Makeup Artists; (vii) the workman has also been performing additional duties including the Programme Production work besides Makeup Work; (viii) the workman is also highly qualified with long experience in different fields connected with programme production besides Makeup Work; (ix) the D.G.A.I.R. ordered vide his order dt. 25-5-70 that the workman's seniority over Shri Srivastava be maintained; (x) The workman has admittedly suffered hardship and loss of career prospects for no fault of his and due to omissions of the Management which is admitted by D.G.A.I.R. vide his order dated 25-5-70.

In view of the foregoing facts and circumstances, the only suitable and appropriate scale for the workman as per the Annexure to the Presidential order dated 21-1-65 (Ex. W. 9) is that of Rs. 425-25-650-30-740-30-770, which is clearly a step higher than the scale of Rs. 280—575 as given to all other subsequently appointed Makeup Artists. The scale of 280—575 was, however, abolished and merged with the Producer scale of Rs. 425—770 in A.I.R. and with Rs. 500—800 in T.V. when rationalised w.e.f. 1-4-71. The scale of Rs. 300—25—600 if rationalised would also have been at least Rs. 500—800 in TV, if not more.

It is not out of place to observe that ordering the lower scale of Rs. 280—575 as an alternative to higher scale of Rs. 300—25—600 w.e.f. 1-10-64 will amount to reduction in the workman's scale and thus reduction in rank (as scale signifies status) which will not only be violative of Management's commitment of keeping workman's scale a step higher, but will also be violative of law of the land. Also, by ordering lower scale of Rs. 280—575, not only the higher limitwise be reduced but the initial rate increment will also be reduced from Rs. 25 per annum to Rs. 20 per annum which on the face of it will not be tenable in law.

Thus the Issue No. 1 in the Reference is decided in favour of the workman and against the Management and it is held that the workman is entitled to the scale of Rs. 425—770 w.e.f. 1-10-1964 alongwith all the consequential benefits of initial fixation of fee, regulation of increment as per the two orders (Ex. W. 9 and W. 10), endorsement of the original contract of the workman with grant of other related benefits as granted to other Staff Artists then by the endorsement of their original contracts viz. C.P.F., gratuity etc. at par with other Staff Artists. It is ordered accordingly.

#### ISSUE NO. 3

11. Next issue referred to this Tribunal for decision relates to further revision of fee scales of T.V. Staff Artists w.e.f. 1-3-68 vide Ministry's order dated 8-3-68 (Ex. W. 30). This is a Presidential order and relates to the revision of fee scales for certain categories of Staff Artists on the Television side of A.I.R. The revised scales are given in the Annexure attached to the Ministry's order, as above. It is contended by the workman that further revision was ordered on the recommendations of the Mullick Committee, constituted vide Ministry's order dated 6-8-1966. This was a Departmental Committee which recommended vide its Report (Ex. W. 31) higher fee scales for Staff Artists on T.V. side of A.I.R. on the basis of the fact that the T.V. Staff Artists were performing more arduous and complicated nature of duties/jobs than their counterparts in A.I.R. They had also to work in difficult conditions at odd hours and also required additional talent in the art of Television. The aim of recommending higher grades was to attract well experienced and well qualified persons for Television's development. In its report the Committee did not recommend the promotion of the number of Staff Artists in the higher grades to those in the lower grades in each category. The Committee did not consider it necessary to frame separate fee scales for Script Writers and Assistant Producers for Television vis-a-vis these categories on Sound side. On the basis of the recommendations of the Mullick Committee, the Ministry's order dated 8-3-68 was issued. This order clearly stipulates that the fee scales for the categories of Script Writers and Assistant Producers (including a few other specified categories) shall be the same as sanctioned for the corresponding categories in

the Broadcasting side. Apart from this, separate scale for the category of Makeup Artist was neither recommended by the Mullick Committee nor prescribed in the Annexure to the Ministry's order dated 8-3-68. This was due to the fact that the post of Makeup Artist in the junior grade of Rs. Rs. 280—575 had already been equated for all practical purposes to the post of Assistant Producer in 1966 vide Ministry's order dated 18-4-1966 (only 4 months prior to the setting up of Mullick Committee). It was thus intentionally omitted from consideration as a separate post because the head of the Departmental Mullick Committee was the same person who as the Deputy Director General of A.I.R. had earlier recommended in March, 1966 that the two posts be equated, which was approved by the Ministry in April, 1966 (Ex. W. 4) and confirmed in 1968 vide Ministry's order dated 8-3-1968 (Ex. W. 30) by deliberate omission of the category of Makeup Artists in both the Report and Orders.

Tracing the history of TV's inception in India, the workman has contended that separate designations and their fee ranges/scales were not announced in the beginning. So Television Artists were appointed in the same designations and their approved fee ranges/scales as prevailing in All India Radio then, and they performed different duties as and when assigned to them. It was thus proposed in 1966 to redesignate the post of Makeup Artist as Producer (Makeup) Pending finalisation of this decision, the 2nd post of Makeup Artist as given to Shri Ashok Srivastava, was equated with the post of Assistant Producer in the notified scale of Rs. 280—575.

The Management has not contested or contradicted the workman's submissions on Affidavit but has rather supported workman's case that the fee scale for the post of Makeup Artist was not prescribed/formulated in the Ministry's order dated 8-3-68. This, according to the Management, was due to the fact that the categories of Staff Artists on the TV side were still in the developing stage and distinct categories and their fee scales had not yet developed in Television. The Management's witness clearly admitted in his Cross-Examination that the Assistant Producers were equated with the Makeup Artists on TV. It is, however, surprising that in spite of admitting/confirming the equation of the two posts the benefit was not given to the workman either in 1966 or in 1968 and he kept on getting partial ad hoc wages till 1970.

It is clear from the record of the case that the workman was given a higher scale of Rs. 300—20—600 in 1970 w.e.f. 1-1-65 thereby clearly establishing his grade seniority over others in Rs. 280—575 grade and thus, in view of management's admission that the scale of Rs. 300—25—600 is not approved or is non-existent, the workman's claim to a higher revised grade as per the Annexure to the Ministry's order dated 8-3-68 to which the Management is committed for giving/keeping his grade a step higher than others in Rs. 280—575 grade, is fully justified.

As observed from the foregoing paras, the workman has been held to be entitled to the fee scale of Rs. 425—770 w.e.f. 1-10-64 which has been revised as per Annexure to the Ministry's order dated 8-3-68 to Rs. 500—800 w.e.f. 1-3-68. It is held that the workman is clearly entitled to this revised scale of Rs. 500—800.

#### ISSUE NO. 2

12. Yet another issue referred to this Tribunal relates to non-rationalisation of workman's fee scale w.e.f. 1-4-71 vide Ministry's order dated 7-2-72 (Blue Book) (Ex. W. 5). As per the Blue Book, the Government decided to rationalise the fee structure of Staff Artists of All India Radio (which included Television also) and communicated the orders to Director General, A.I.R. vide M/I&B letter No. 12/4/72-B(A) dated 7th February, 1972. It is clear from perusal of the Blue Book that All India Radio employs a large number of Staff Artists on contract basis for a variety of works connected with its programmes. They are in addition to the regular government employees of All India Radio. The process of rationalisation was necessitated due to the fact that the Pay Commission was not considering the fee scales of Staff Artists because of contractual employment (or being employed on contract basis). Thus the aim was to rationalise

lise the fee/staff structure by re-grouping the categories performing similar nature of work or who function at a certain level of responsibility and adopt those scales which correspond to recognised scales of Government employees in A.I.R., with marginal upward revision wherever necessitated. But wherever the existing scales were very low somewhat more than marginal revision has been made. All this was done in preparation to give further revision of fee scales in the light of the decisions which Government was to take on the recommendations of the Pay Commission with regard to the scales of comparable categories of Government employees of all India Radio. The workman has contended that since the Staff Artists of TV were under the Administrative Control of Director General, All India Radio and thus enjoyed the same service and working conditions as their counterparts in A.I.R., they were also entitled to the same benefits of rationalisation/upward revision to bring their scales also in line with the standard scales of Regular Government employees in A.I.R. as done in the case of Staff Artists on sound broadcasting side. This was all the more essential in view of the fact that there were certain categories in Television viz. Musicians, script writers, Assistant Producers, Producers etc., which were common with A.I.R. and if their scales were not rationalised then at the time of granting Pay Commission benefits they would get lower revised fee scales resulting in internal differentials in the matter of revised fee scales as well as suffer apparent anomalies in the revised fee scales w.e.f. 1-1-73. Thus in the interest of equality and parity with their counterparts in A.I.R., the aims and objectives of Rationalisation should have been uniformly implemented. More so, because Television is admittedly much more complex, arduous and complicated requiring much more effort and specialisation than sound broadcasting, the fee scales in TV could not possibly be lower than the scales on sound broadcasting side. These should at least be the same as in A.I.R.

The Management has admitted the contentions of the workman with regard to the aims and objectives of rationalisation viz. to reduce multiplicity and to bring their scales in line with the standard scales of regular government servants. As per management's own case, the purpose was essentially rationalisation and upward revision in the process was only incidental. The Management has, however, contended that such rationalisation on Television side was not considered necessary at that time because TV was still in the developing stage when there was only one TV Centre in the country. On this logic the management has contended in its written statement that the Ministry's order dated 7-2-72 was not applicable to Staff Artists on TV side of A.I.R. This contention of the Management is contradicted by the Management's own witness in his Cross-examination dated 24-3-87 who has admitted the correctness of the Blue Book (Ex. W5) and has further admitted that on the basis of the Blue Book the scales of TV Artists have also been rationalised.

In view of the foregoing, it is clear that the Staff Artists on TV side of AIR were also entitled to the benefits of rationalisation and upward revision w.e.f. 1-4-1971. It is also clear that the workman was discriminated against when his non-standard fee scale of Rs. 300—25—600 was not rationalised w.e.f. 1-4-71 to bring it in line with the standard scales of regular government servants in AIR to facilitate Conversion on the analogy of IIIrd Pay Commission w.e.f. 1-1-1973.

It is a matter of record that in order to implement the rationalisation the Director General issued order dated 23rd October, 1972 (Ex. W. 32) whereby the Assistant Producers in the scale of Rs. 280—575 were automatically upgraded and merged with the Producer's scale. The decision was implemented in TV also when the Assistant Producers of TV in the scale of Rs. 280—575 were automatically upgraded and fitted in the Producer's scale of Rs. 500—800 which is self evident from the contracts of Shri S. H. Paul and Shri Gopal Gupta (Ex. W. 15 and W. 16).

It is clear that once the Makeup Artists posts were equated for all practical purposes with the post of Assistant Producers they were also entitled to the same benefits of upgradation as above. The workman who was appointed in the scale of Rs. 300—25—600 which is clearly a step higher than the scale of Rs. 280—575 scale deserved a still better

deal. That is, the rationalisation of his non-standard scale of Rs. 300—25—600 would have automatically resulted in the revised scale of at least Rs. 500—800 w.e.f. 1-4-1971, which was not done.

It is pertinent to observe here that the incumbents in Rs. 500—800 scale were not given any further upgradation or rationalisation benefits w.e.f. 1-4-1971. Since the workman has already been declared to be entitled to the fee scale of Rs. 500—800 w.e.f. 1-3-1968, as above, he will not derive any benefit vis-a-vis others in Rs. 500—800 scale by virtue of the rationalisation. The Issue No. II is disposed of in the above terms.

ISSUES NO. 4 and 7

13. Coming to Issue Nos. 4 and 7 in the Reference, it is clear that both these issues are directly interconnected in as much as Issue No. 4 relates to the revision of fee scales w.e.f. 1-1-73 on the analogy of IIIrd Pay Commission and Issue No. 7 relates to the removal of anomalies in the above noted order dated 8-3-77 (Ex. W. 33).

The Management further revised the fee scales of TV Staff Artists vide Ministry I & B Order dated 8-3-77 (Ex. W. 33). As per the order, the scales of various categories of Doordarshan Staff Artists were revised 'on the analogy of the recommendations of the 3rd Pay Commission in respect of regular Government posts'. The formula for fee fixation was ordered to be the same as laid down in the CCS (Revised Pay) Rules, 1973 as amended from time to time in relation to regular Government servants. The orders regarding date of increments as applicable to regular Government employees were to be extended to Staff Artists also. These orders also made it obligatory for the Staff Artists to give an unconditional option in writing in the same form as for regular Government employees to come over to the revised scale or to retain the old scale or to come over to the revised scale w.e.f. a prospective date. As the orders for revision of fee scales of TV Staff Artists were already delayed, a direction was incorporated in the order itself to grant expeditious revision and payment of arrears to the Staff Artists of Doordarshan.

The grievance of the workman in that while all other Staff Artists of TV were granted revision of scales and payment of consequent arrears, in the same year, his case in this regard was kept pending for more than five years on partial wages. The grievance of the workman appears genuine as till the filing of the claim in the present I.D. in 1981, the workman's existing scale of Rs. 300—25—600 was not revised by the Management and he kept on languishing on partial wages for the next five years till 1983. This action of the Management clearly contravened the direction in the order Ex. W. 33 for expeditious revision and payment of arrears to the employees thereby causing an unnecessary monetary loss to the workman.

It was in 1983, when the matter was pending in the present I.D. and thus subjudice, that the Management sought to revise the workman's existing fee scale vide its office Memorandum dated 25-3-1983 to Rs. 550—900. As the revision was not proper, being not based on analogy of standard scale of regular government posts etc., the offer was rejected by the workman vide his reply dated 25-4-1983. Accordingly no endorsement was made in this regard in workman's service contract (Ex. W. 18) (as done in other contracts). The reason for delay in implementing the government order dated 8-3-1977 (Ex. W. 33) is amply clear from the record of the case. That is, in 1976 the Management had filed a Review Petition vide LCA No. 216/76 against the labour court order dated 28-2-1976. The Management had raised therein the plea of Audit Objection with regard to the ordered fee scale and fee fixation etc. Thus when the Ministry's order dated 8-3-1977 was issued, the matter in the Review Petition was still pending. As such when the workman was asked to give his option, he did opt for coming over to the revised scale w.e.f. 1-1-1973 but recorded this fact on the Option Form dated 18/29-6-1977 (Ex. W. 34) thereby giving conditional option. Also, in the Form of Option, the column with regard to the revised scale of Rs. 550—900 was kept blank. It is thus amply clear that the workman did not give option for the revised scale of Rs. 550—900,



The allegation of the Management that the workman opted for the revised scale of Rs. 550—900 is ill-conceived and wrong. Further, it is self-evident from Management's own orders dated 29-3-1982 and 11-3-82 (Ex. W. 35 and W. 36) that the workman's option for the revised scale of Rs. 550—900 was presumed by the Management.

The case of the workman under the Issue is that he was senior Grade Makeup Artist by virtue of the fact that he was appointed in a higher scale of Rs. 300—25—600 vis-a-vis an other Makeup Artists who were appointed in a lower scale of Rs. 280—575. Even though when the Management has admitted that the workman was holding a senior scale of Rs. 300—25—600, it still contends that there was no category of Makeup Artist Sr. Grade or Makeup Artist Jr. Grade. Management's contention is, at the face of it, self-contradictory in as much as there cannot be two different un-identical fee scales attached to the same category of post. Apparently the incumbents holding higher scale are deemed to be Sr. Grade Makeup Artists and those holding lower fee scale are Jr. Grade Makeup Artists. The contention of the Workman that he is a Sr. Grade Makeup Artist is further supported by Management's own letter dated 15-6-82 (Ex. W. 14) which is extracted as under :

"Incidentally it may be mentioned here that in the case before the Labour Court in 1976, the Department classified Shri Nanda as a "Sr. Grade Makeup Artist" by virtue of his being in a higher grade of Rs. 300—25—600 than the "then existing lower grade" of Rs. 280—400 or 280—575. This classification itself was communicated to Shri Nanda through the Labour Court and the commitment made on behalf of Government. No such commitment was made in the case of Shri Ashok Srivastava who was initially recruited in the fee scale of Rs. 280—575."

Earlier, the Management had admitted in its Review Petition in LCA 216/76 that the workman is a Sr. Grade Makeup Artist. It is startling to note that inspite of the admissions before the Labour Court in 1976, the Management did not prescribe any fee scale for Sr. Grade Makeup Artist in its order dated 8-3-1977 issued within a year of its admission as above. Instead, the scale of Rs. 300—25—600 was illegally downward equated with the junior fee scale of Rs. 280—575 by unilaterally classifying it as a 'personal scale' to grant a lower revised scale of Rs. 500—900 w.e.f. 1-1-73.

The workman has contended that the scale of Rs. 300—25—600 was not ordered as a 'personal scale' and he challenged the Management to provide any evidence in the form of any letter or order etc. to that effect, which the Management has failed to provide. The Management witness has further admitted in his Cross-examination that if a 'personal scale' is allowed to an employee then the fact is mentioned in the order itself. The Management's witness also admitted that the scale of Rs. 300—25—600 was not ordered to be a 'personal scale' for the workman. It is also not disputed that the junior scale of Rs. 280—575 was abolished in both A.I.R. and Television w.e.f. 1-4-1971 and that the senior scale of Rs. 300—25—600 was not an approved scale and thus extinct scale. Infact the post of Makeup Artist was not separately sanctioned in Television. It is not understood how can the analogy of 11th Pay Commission be appropriately applied for revising these scales to Rs. 550—900. Clearly then the revised scale of Rs. 550—900 as shown against the above mentioned two scales in the Management's order dated 8-3-77 is not proper and thus not enforceable. The Management further admitted vide its letter dated 15-6-82 (Ex. W. 14) that the workman is entitled to a higher scale of Rs. 650—1200 relevant portion of which is extracted as under :—

"Another question arises with regard to the decision to fit him in the fees scale of Rs. 550—900 w.e.f. 1-1-73. It is presumed that Shri Nanda had to be given a higher fees scales viz. Rs. 300—25—600 treating him as a "Sr. Grade Makeup Artists". Then the more appropriate "revised scale" on the basis of Pay Commission's recommendations would be 650-1200 and not Rs. 550-900."

"Shri Nanda has put in more than 20 years of service. Having categorised him as a "Sr. Grade Artist" we should have been more liberal in recommending Rs. 650-1200 than a lower grade of Rs. 550-900. In the order dated 8-3-1977, the wordings were that the grade of Rs. 300-700 was referred to as personal to two Makeup Artists". If an alternative recognised grade is considered in place of an un-recognised grade, then recognised grade for Sr. Grade Makeup Artists should appropriately be a higher one and not Rs. 550-900.....

In view of the foregoing discussions and admissions of the Management I have no hesitation in holding that the workman is entitled to a revised grade which is a step higher than his counter-parts in lower grade in T.V.

It has already been held under Issue No. 3 that the workman is entitled to the pre-revised scale of Rs. 500-800. The order of the Management dated 8-3-1977 (Ex. W. 35) shows that the scale of 500-800 was revised to the scale of Rs. 650-1200 w.e.f. 1-1-1973. Therefore I have no hesitation in holding that the workman is entitled to the scale of Rs. 650-1200 w.e.f. 1-1-1973 with all consequential benefits.

Further Issue No. 7 which is inter-connected to the issue No. 14 relates to the removal anomaly in converting the existing scale of Rs. 300-25-600 to the revised scale of Rs. 550-900 as per the Ministry's order dated 8-3-1977. The reason for anomalies in the above mentioned order was an improper, arbitrary and rather discriminatory implementation of the Blue Book (Ex. W. 5).

The contention of the workman is that the scale of Rs. 300-25-600 was not even referred specifically to the Anomalies Committee and thus not considered by the Committee. In fact, his case for revision w.e.f. 1-1-1973 was still pending and he was paid partial wages @ Rs. 550 basic in the pre-revised scale of Rs. 300-25-600. The Management has admitted the setting up of the Anomalies Committee to go into the revision of fee scales as per Government order dated 8-3-1977, which covered the pre-revised scale of Rs. 300-25-600. The Committee did not recommend further revision of the fee scale in the case of makeup Artists. The contention of the Management is countered by the Workman by his submissions that the Committee did not go into the fee scales of Make-up Artists and thus the category of Make-up Artists is not even mentioned in the Report of the Committee.

Since the workman has already been ordered to be entitled to the revised fee scale of Rs. 650-1200 w.e.f. 1-1-1973, there is no need to go into the niceties of this matter any further as the ends of justice would be met by granting the revised scale of Rs. 650-1200 to the workman w.e.f. 1-1-1973 with all consequential benefits, at par with the holders of this scale in Television. It may however, be observed that even when the pre-revised scale of Rs. 300-25-600 is revised after removal of anomaly the result will be the same. The case is clear especially when revision in the case of Script Writers after the issue of corrigendum dated 2-9-1978 (Ex. W. 40) is examined, since the scale of Rs. 235-480 was revised to Rs. 550-900, the scale of 300-25-600 definitely deserves higher revision to Rs. 650-1200.

Thus Issue No. 4 & 7 stand disposed of in favour of the workman and against the management in the above terms.

#### ISSUE NO. 5

14. Another Issue is the discrimination in the grant of Selection Grade to the workman w.e.f. 1-8-1976 sanctioned vide Ministry of I & B order No. 509/17/77-TV, dated 11-11-1977 (Ex. W. 41).

The Ministry of I & B vide its order dated 11-11-1977 had sanctioned Selection Grades for a few categories of Staff Artists in Doordarshan Kendra. The Selection Grades were granted to those employees who were directly recruited and who had suffered acute stagnation. The workman contends that he fulfills both the criteria but still he was deprived of this benefit deliberately. The workman claims an appropriate Selection Grade which is sanctioned as per the guidelines laid down in the Ministry of Finance order dated 10-1-1977 (W. 42) and prevailing in the establishment.

As per the order of the Ministry of Finance dated 10-1-1977 (Ex. W.42) it was laid down that those Employees are entitled to the grant of Selection grade (1) where the posts are filled by direct recruitment to an extent of not less than 70 per cent and (2) where the employees are suffering acute stagnation. There was also another order of the Ministry of Finance dated 24-10-80 whereby para 1(v) of the order dated 10-1-1977 (W.42) was amended to relax the criterion about the length of service for determining eligibility of the Selection Grade. In the case of the workman, however, the criteria of length of service is immaterial rather the criteria of acute stagnation is relevant and an important factor.

On the principles and guidelines of the above mentioned order of the Ministry of Finance dated 10-1-1977 (Ex. W.42) the President was pleased to sanction Selection Grades for 9 categories of Staff Artists of Doordarshan vide Ministry's order dated 11-11-1977 (Ex.W.41). This order was made applicable subject to the fulfilment of various conditions laid down in the Memorandum of Ministry of Finance (Ex.W.42) and especially subject to paras 1(i), (v), (vii) and para 4 of the Ministry of Finance order dated 10-1-1977 (Ex.W.42). The workman contends that even when his case was covered, he was deprived and discriminated against in the grant of Selection Grade.

The case of the workman is that he fulfilled both the laid down criteria for the grant of selection grade as he was directly recruited as a Makeup Artist on 1-9-1961 as well as he suffered an acute stagnation in the pre-revised fee scale of Rs. 300-25-600 after 1-1-1973. The workman alleges that since selection grade was not sanctioned for him he was made to suffer discrimination at the hands of the Management.

The Management has defended the case by referring to the Recruitment Rules of 1979 and contended that the vacancies in the category of Makeup Artist were to be filled 100 per cent by promotion. The Management is, however, silent about the factor of acute stagnation in the guidelines.

The contentions of the Management are untenable in law because the Ministry's order dated 11-11-77 was issued much before the Recruitment Rules of 1979 came into existence. Also, since the Recruitment Rules are not notified they do not have the force of law. It is also relevant to mention here that on the material date the concerned workman was not granted even the revised fee scale on the analogy of 11th Pay Commission w.e.f. 1-1-1973.

However, a proposal was initiated by the Management of Doordarshan in 1979 for the sanction of Selection Grade as per the provisions of Ministry of Finance order dated 10-1-1977 (Ex. 42) for Makeup Artists in TV, admitting therein that the Makeup Artists, including the workman, are entitled to the grant of Selection Grade w.e.f. 1-8-1976 on the laid down criterion of acute stagnation. The proposal of the Management was wrongly rejected by the Ministry of I & B because it was incorrectly shown in the Management's proposal that the workman was not stagnation at the maximum of the pre-revised scale of Rs. 300-25-600 in 1973. The proposal & decision is at Ex. W.43. It is a matter of fact that the workman had reached the maximum of the scale i.e. Rs. 600 on 1-1-1973 and thereafter no increment was allowed to him and since that date he suffered an acute stagnation. Thus, the workman has a prima facie case for getting Selection Grade. In the peculiarity of circumstances as above, and in view of the guidelines laid down in the Ministry of Finance order dated 10-1-77 I hold that the workman is entitled to the Selection Grade and consequential benefits w.e.f. 1-8-1976.

It has already been held above that the workman is entitled to the revised fee scale of Rs. 650-1200 w.e.f. 1-1-1973. In view of this, it is clear from the proceedings of the case that the appropriate Selection Grade for the scale of Rs. 650-1200, as sanctioned for Government servants vide Ex. W.44 and prevalent in AIR/ Doordarshan is Rs. 700-1300. It is thus ordered that the workman is entitled to the Selection Grade of Rs. 700-1300, on the principles & guidelines laid down in the Ministry of

Finance order dated 10-1-1977 (Ex. W.42) w.e.f. 1-8-1976. The workman is also entitled to all the consequential benefits like arrears, increments etc. as per the ordered Selection Grade of Rs. 700-1300 with effect from 1-8-76.

#### ISSUE NO. 6 :

15. Another issue in the Reference concerns non-extension of workman's contract upto the age of 58 years. It is a matter of record that the Ministry of I&B had ordered vide its order dated 9-2-79 that the contracts of Staff Artists in TV in the fee scale below Rs. 650—1200 may be extended upto the age of 58 years. The order also states that for Staff Artists in the fee scale of Rs. 650—1200 & above, a further communication will follow. The workman is aggrieved by the fact that on the material date he was still holding the fee scale below Rs. 650—1200 and thus was entitled to the extension of contract upto the age of 58 year which was not done and the workman was further deprived of the general order. (The decision was based on the premise that "Doordarshan should also follow the practice in vogue in AIR").

The Management has now annexed a copy of their Memorandum dated 20-4-83 based on the Ministry's order dt. 9-2-77, stating that the contract of the workman is extended upto the age of 58 years. Thus the employer has clearly admitted to implement the order as above but contrary to its admission, has not yet endorsed any of the contracts of the workman. The employer is thus directed to endorse the original contract of the workman dated 1-1-62 to follow the rules & practice in vogue in AIR/TV. The issue No. 6 is thus disposed of with these directions to the Management.

#### ISSUE NO. 8 :

16. Yet another issue in the Reference is connected with the creation of Civil Post of appropriate status for the workman w.e.f. 1-9-1961, the date of his appointment in TV vide Ministry of I&B order dated 22-10-1960 on the subject of 'Conditions of Service of Whole-time Staff Artists of A.I.R. As per para 2(d) of this letter dated 22-10-1960 (Ex. W.6) It is specified that "If a Central or State Government Servant is selected for appointment as a Staff Artists in the All India Radio, a temporary post of appropriate status, shall be created for him/her in the establishment of the Station/Office concerned". It is clear from the proceedings that in accordance with these orders Civil Posts of appropriate status were created for many Staff Artists in AIR. As such it was obligatory for the Management to create a suitable Civil Post for the workman w.e.f. 1-9-1961 which was not created and rather he was asked to resign from the Civil Post he was holding in his parent office in Central Statistical Organisation in a Quasi-permanent capacity. This was a clear violation of the Government orders as above. Management's contentions in this regard are against the letter & Spirit of the Government order dated 22-10-1960 and are thus not tenable in law. In the circumstances it is directed that a Civil Post of appropriate status be created for the workman w.e.f. the date of his appointment 1-9-1961 with all the consequential benefits to which the workman is entitled under the existing rules of the Government. The resignation as submitted by the workman in 1961 at the instance of the Management, be treated as a technical formality without any ill effect whatsoever on the continuity of workman's service. The order is in accordance with the decision of Hon'ble Supreme Court of India holding Staff Artists of Doordarshan to be Government Servants vide the case of Y. K. Mehta Vs. U.O.I. (1989) (I) SLJ 97) as well as in the case of U.O.I. Vs. M. A. Chowdhury (1988) (I) SLJ 43) holding Staff Artists to be holding Civil Posts. It is also directed that the workman be also given the benefit of merger of his post with regular posts of appropriate status in AIR/TV for the purposes of promotions etc. as done in the case of other staff Artists categories in TV. This issue stands disposed of accordingly.

17. In fact the present case is one which should not have come to this Tribunal and the Management should have itself decided the Issues long ago, about 20 to 25 years back. But unfortunately the authorities did not even do the needful to mitigate the hardships of the workman even though the D.G.A.I.R. and D.G.T.V. felt



strongly in favour of the workman vide letters dated 25-5-70 (Ex. W.3), dated 4-7-81, 19-4-82 and 15-6-82 (Ex. W. 12.13.14) respectively. The workman had not been given a proper & promised fee & fee scale since last more than 25 years. The services of the workman were utilised, by the Management when the Television was just in its evolving stage and required sincere, devoted and experienced employees to strengthen the developing establishment. The workman, therefore, deserves exemplary costs which are quantified at Rs. 10000. It is further directed that, all the above directions shall be implemented and the workman given all the consequential benefits within three months of the enforcement of the award. The workman shall be paid all the arrears with 12% compound interest per annum within the said period of 3 months. In case of default, the management shall be liable to pay further interest at the rate of 15 per cent per annum compounded on monthly basis. This reference stands disposed of accordingly.

Dated, 16th October, 1989.

G. S. KALRA, Presiding Officer

INo. L-42012/71/80-D.II(B):

HARI SINGH, Desk Officer

नई दिल्ली, 9 नवम्बर, 1989

का.अ. 2994.—आत अधिनियम, 1952 (1952 का 35) की धारा 5 की उपधारा (1) द्वारा प्रदत्त शक्तियों का प्रयोग करते हुए, केंद्रीय सरकार श्री जी. नागराज, वेंकटेश और श्री एच.के. श्रीवस्तव को अपने आदेशों तह मुख्य खान निरीक्षक के अधीन खान निरीक्षक नियुक्त करती है।

[फा.सं. ए-12028/3/86-म.त-1/अ.ई.ए.ए.ए-1]

उप निरीक्षक ए.ए.ए.ए., उप सचिव

New Delhi, the 9th November, 1989

S.O. 2994.—In exercise of the powers conferred by sub-section (1) of section 5 of the Mines Act, 1952 (35 of 1952) the Central Government hereby appoints S/Shri G. Nagaraj Venkatesh and H. K. Shrivastava as Inspectors of Mines subordinate to the Chief Inspector of Mines, until further orders.

[F. No. A-12028/3/86-M.I/ISH.1]

R. T. PANDEY, Dy. Secy.

नई दिल्ली, 9 नवम्बर, 1989

का.अ. 2995.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुवर्ण में केंद्रीय सरकार सैयर्स भारत कोलिंग कोल लि. का मुगईदाह कोलियरी के प्रबन्धन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निहित औद्योगिक विवाद में केंद्रीय सरकार औद्योगिक अधिकरण (सं. 2) घनबाद के पंथाट को प्रकाशित करती है।

New Delhi, the 9th November, 1989

S.O. 2995.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. 2, Dhanbad as shown in the annexure in the industrial dispute between the employers in relation to the management of Muraidih Colliery of M/s. Bharat Coking Coal Ltd., and their workmen.

## ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (No. 2) AT DHANBAD

Reference No. 232 of 1987

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947.

#### PARTIES:

Employers in relation to the management of Muraidih Colliery of Messrs. Bharat Coking Coal Limited and their workman.

#### APPEARANCES:

On behalf of the workmen : Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union.

On Behalf of the employers : Shri K. P. Rewani, authorised representative.

State : Bihar.

Industry : Coal.

Dhanbad, the 16th October, 1989

## AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(71)87-D.III(A), dated, the 18th August, 1987.

## SCHEDULE

“Whether the action of the management of Muraidih Colliery of M/s. Bharat Coking Coal Limited in dismissing Smt. Dhankalia Kamin from service with effect from 22-11-1986 is justified? If not, to what relief the workman is entitled?”

In this case both the parties appeared and filed their respective W.S. Subsequently at the stage of filling documents, both the parties appeared before me and filed Joint Compromise petition. I heard them on the said petition of Joint Compromise and I do find that the terms contained therein are fair, proper and beneficial to both the parties. Accordingly I accept the same and pass an Award in terms of the Joint Compromise petition which forms part of the Award as Annexure.

I. N. SINHA, Presiding Officer.

## ANNEXURE—A

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, DHANBAD

In the matter of reference No. 232 of 87

## PARTIES:

Employers in relation to the Management of Muraidih colliery of M/s. BCCL P.O. Nawagarh, Distt. Dhanbad

AND  
Their workmen

## JOINT COMPROMISE PETITION OF THE EMPLOYERS AND THE WORKMAN

The above mentioned employers and the workman| sponsoring Union most respectfully beg to submit jointly as follows:—

(1) That the Management as well as sponsoring Union|Workman have negotiated the dispute referred to this Hon'ble Tribunal and covered by the above reference with a view to arriving at an amicable and mutually acceptable overall agreement.

(2) That as a result of such negotiation the employers and the sponsoring Union|Workman have agreed to settle the matter on a overall basis on the following terms and conditions:—

- (a) It is agreed that the Management shall provide employment as a casual wagon loader to Smt. Dhankalia Kamin from now onwards i.e. within a fortnight of this joint compromise petition being accepted by this Hon'ble Tribunal.
- (b) It is agreed that the workman concerned will not be entitled to any back wages or other benefits in regard to her past service but she will be entitled only to continuity of service.
- (c) It is agreed that this is an overall agreement in respect of the claims of the workman concerned|sponsoring Union arising out of the aforesaid reference.

2. That the employers and the sponsoring Union Workman concerned consider and hereby declare that the aforesaid terms and conditions are fair, just and reasonable to both the parties.

In view of the above the employers and the sponsoring Union|Workman jointly pray that the Hon'ble Tribunal may be pleased to accept this joint compromise petition and give an award in terms thereof.

DY.C.M.F. AGENT,

Muraidih Colliery  
Bharat Coking Coal Ltd.,

For & On behalf of th Employers  
V. R. JOSHI, Dy. Chief Personnel.  
Barora Area, BCCL

For & On behalf of the Employers  
(Raj. S. Murthy),  
Advocate  
For Employers.

Secretary,  
Bihar Colliery Kanganar Union.  
R. T. of Dhankalia Kamin  
(Dhankalia Kamin)

[No. L-20012(71)/87-D.III(A)AIR (Coal)]

नई दिल्ली, 10 अगस्त, 1989

का. अ. 2996.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मैसर्स भारत कोकिंग कोल लिमिटेड का सुरक्षा हेड क्वार्टर के प्रबन्धन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं.), धनबाद के पंचाट को प्रकाशित करती है, जो केन्द्रीय सरकार को 26-10-1989 को प्राप्त हुआ था।

New Delhi, the 10th November, 1989

S.O. 2996.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal No. I, Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Security Head Quarters of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government on 26-10-1989.

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT (NO. 1), DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 109 of 1988

## PARTIES :

Employers in relation to the management of Security Head Quarters of M/s. B.C.C. Ltd.

AND

Their Workmen.

## PRESENT :

Shri S. K. Mitra, Presiding Officer.

## APPEARANCES :

For the Employers—Shri B. Joshi, Advocate.

For the Workmen—Shri G. D. Pandey, Vice President, Rashtriya Colliery Mazdoor Sangh.

STATE : Bihar

INDUSTRY : Coal

Dated, the 19th October, 1989

## AWARD

The present reference arises out of Order No. L-20012/106/88-III (A), dated, the 2nd August, 1988 passed by the Central Government in respect of an industrial dispute between the parties the mentioned above. The subject matter of the dispute has been specified in the schedule to the said order and the said Schedule runs as follows:—

"Whether the action of the management of Security Headquarters of M/s. B.C.C. Ltd. Karmik Bhawan, P.O. ISM. Distt. Dhanbad in dismissing Shri Binay Kumar Sinha, Security sub-Inspector from service w.e.f. 24-10-1986 is justified? If not, to what relief the workman is entitled."

2. The dispute has been settled out of Court. A memorandum settlement has been filed in Court. I have gone through the terms of settlement and I find them quite fair and reasonable. There is no reason why an award should not be made on the basis of terms and conditions laid down in the memorandum of settlement. I accept it and make an award accordingly. The memorandum of settlement shall form part of the award.

3. Let a copy of this award be sent to the Ministry as required under section 15 of the Industrial Disputes Act, 1947.

S. K. MITRA, Presiding Officer  
[No. L-20012(106)/88-D.III (A)/IR (Coal-I)]

## MEMORANDUM OF SETTLEMENT :

## NAME OF THE PARTY :

## Management Representatives :

- (1) Shri A. A. Jafri,
- (2) Shri B. P. Yadav.

## Union's Representatives :

- (1) Shri G. D. Pandey,  
Vice-President (RCHS)
- (2) Shri B. K. Sinha.

## Short recital of the Case

Shri B.K. Sinha, the workman concerned submitted his joining report on transfer dated 17-10-85 to G. M. Block-II and thereafter he absented from duty continuously without permission and without satisfactory cause. After waiting for nearly two months he was issued charge sheet. It was addressed to his local address and also to his permanent address at Patna. The registered letter returned by the Postal Department undelivered as the addressee could not be treated. Copy of the letter intending for local address was given to Shri S. K. Lall, S. I. Security, but he reported that on 2 occasions he tried to contact Shri Sinha on his local address, but could not find him there returned the same undelivered.

On the basis of the enquiry held, the Enquiry Officer gave his finding to the effect that the charges framed against Shri B. K. Sinha was fully established beyond doubt. Considering the gravity of the misconduct against the workman Management came to the conclusion that this is a fit case for dismissal from service. Accordingly the workman concerned was dismissed from service.

Union's contention is that the dismissal is illegal and unjustified. The workman used to work as Security Sub-Inspector in Block-II, which is not less than 25 Kms away from Sinua, his official residence where he used to perform his duties every day. Due to long travel and shift duty the workman was gradually deteriorating in health. The workman participated in enquiry and gave the document of his illness, but dismissal is disproportionate to the alleged misconduct. After all dismissal is a capital punishment and infliction of said punishment was uncalled for.

After prolonged discussions on several dates it was decided to settle the case on the following terms and conditions :—

## Terms of Settlement

- (1) Shri B. K. Sinha will be taken into employment with immediate effect without back wages.
- (2) The period of idleness from 17-10-85 till he joins will be treated as leave without pay.
- (3) Shri Sinha will have no claim over the back wages during the period he was idle.
- (4) Copy of this settlement will be submitted to the Hon'ble Tribunal No. I for passing the award in terms of this settlement.

## Union's Representative :

(G. D. PANDEY)  
(B. K. SINHA)

## Witness :

Illegible

## Management Representative :

(A. A. JAFRI)  
(B. P. YADAV)

S.O. 2997.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Koordih Colliery of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government on 28-10-1989.

## ANNEXURE

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

Reference No. 132 of 1982

In the matter of an industrial dispute under Section 10(1)(d) of the I. D. Act, 1947

## PARTIES :

Employers in relation to the management of Koordih Colliery of Messrs Bharat Coking Coal Limited, Post Office Sonardih, Distt. Dhanbad and their workman.

## APPEARANCES :

On behalf of the workmen—S. Bose, Secretary R.C.M.S. Union.

On behalf of the employers—Shri G. Prasad, Advocate.

STATE : Bihar

INDUSTRY : Coal

Dhanbad, the 16th October, 1989

## AWARD

The Government of India, Ministry of Labour and Rehabilitation in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012(197)/82-D.III (A) dated 5-11-1982.

## SCHEDULE

"Whether the demand of the workmen of Koordih Colliery of Messrs Bharat Coking Coal Limited, Post Office Sonardih, District Dhanbad for protection of wages and proper categorisation in respect of S/Shri Bahadur Singh, Abedin Mian, Kamruddin Mian, Munshi Mahato, Rameshwar Das and Ramu Uria is justified? If so, to what relief are the workman concerned entitled?"

In this case both the parties appeared and filed their respective W.S. documents etc. Thereafter the case proceeded along its course. Subsequently at the stage of oral evidence both the parties appeared before me and filed a petition of compromise. I heard both the parties on the said petition of compromise and I do find that the terms of compromise are fair, proper and beneficial to both the parties. Accordingly I do accept the said petition of compromise and pass an Award in terms of the compromise petition which forms part of the Award as Annexure.

I. N. SINHA, Presiding Officer

[No. L-20012(147)/82-D.III (A)/IR (Coal-I)]

## ANNEXURE-A

## BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. AT DHANBAD

Reference No. 132/82

Employers in relation to the management of Koordih Colliery of M/s. B.C.C. Ltd.,

## AND

Their Workmen.

## PETITION OF COMPROMISE

The humble petition on behalf of the parties to the above reference most respectfully sheweth :—

1. That the Central Government by notification No. L-20012(197)/82-D.III (A) dated 5th November 1982 has been

का. आ. 2997.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मेसर्स भारत कोकिंग कोल लि. की कुरीडीह कोलियरी के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच अनुबंध में निदिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 2), धनबाद के पंचाट की प्रकाशित करती है, जो केन्द्रीय सरकार को 28-10-89 को प्राप्त हुआ था।

pleased to refer the present dispute to the Hon'ble Tribunal for adjudication on the issue contained in the Schedule of reference which is reproduced below :—

#### SCHEDULE

"Whether the demand of the workmen of Koordih Colliery of M/s. Bharat Coking Coal Limited, P.O. Sonaddih Distt. Dhanbad for protection of wages and proper categorisation in respect of Shri Bahadur Singh, Abedin Mia, Kamruddin Mia, Munshi Mahato, Rameshwar Das and Ramu Oria is justified? If so, to what relief are the workmen concerned entitled?"

2. That the dispute has been amicably settled between the parties on the following terms :—

#### TERMS OF SETTLEMENT

- (A) That the concerned workmen S/Shri Bahadur Singh, Abudin Mia, Kamruddin Mia, Munshi Mahato, Rameshwar Das and Ramu Oria have already been regularised on time rated jobs and have been fixed in the proper categorised as per the nature of jobs performed by them. They are not interested to go back on their original jobs of Miners/Loaders and therefore do not claim for the wages of Miners/Loaders or protection of wages.
- (B) That the management agrees to pay the concerned workmen two extra increments in their respective existing categories with effect from 1-1-1989 and they will be fixed in their respective scale of pay taking into account the two extra increments from 1-1-1989.
- (C) That there will be no further claim for difference of wages or protection of wages arising out of conversion of the concerned piece rated workers into time rated scales.

2. That in view of the above settlement there remains nothing to be adjudicated.

It is, therefore, humbly prayed that the settlement may kindly be accepted as fair and proper and the Hon'ble Tribunal will be graciously pleased to pass the Award in terms of the settlement.

For the Employers :

Sd/-

(S. N. P. RAI)  
General Manager

Sd/-

(S. P. SINGHA)  
Personnel/Manager

For the Workmen :

Sd/-

(G. D. PANDEY)  
Vice President

Rashtriya Colliery Mazdoor Sangh  
Witnesses :

1. Illegible  
Sd/-
2. Illegible  
Sd/-
3. Illegible.

का. अ. 2998—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार, जिसमें भारत कोकिंग कोल लि. की निचिपुर कोलियरी के प्रबंधन से सम्बन्धित निषेधों और उनके कर्मचारियों के बीच, अन्वय में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम (गं. 1) धनबाद के पं. 1 के प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 2998.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Nichitpur Colliery of M/s.

Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVT. INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

[In the matter of a reference under Section 10(1(d) of the Industrial Disputes Act, 1947]

Reference No. 5 of 1983

#### PARTIES :

Employers in relation to the management of Nichitpur Colliery in Sijua Area No. V of M/s. Bharat Coking Coal Ltd., P.O. Sijua, Dist. Dhanbad.

#### AND

Their Workman.

#### PRESENT :

Shri S. K. Mitra, Presiding Officer.

#### APPEARANCES :

For the Employers—Sri G. Prasad, Advocate.

For the Workman—Sri S. Bose, Secretary, R.C.M.S. STATE : Bihar. INDUSTRY : Coal.

Dated, the 11th July, 1989

#### AWARD

By Order No. I-20012(67)/89-D.III(A) dated the 15th/21st January, 1983, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute to this Tribunal for adjudication :

"Whether the demand of Rashtriya Colliery Mazdoor Sangh, Rajendra Path, Dhanbad for promotion of Shri B. D. Mondal to Clerical Grade I, with retrospective effect from the date his junior, Shri Shamsuddin Khan has been promoted by the management of Uichitpur Colliery of M/s. Bharat Coking Coal Limited, Dhanbad is justified? If so, to what relief the workman is entitled?"

2. The case of the concerned workman, Sri B. D. Mondal as appearing from the written statement submitted by the sponsoring union, Rashtriya Colliery Mazdoor Sangh, Dhanbad, details apart, is as follows :

The concerned workman has been working as Cap Lamp Cabin Incharge since April, 1975 in Nichitpur Colliery. Between 1976-77 the management of M/s. B.C.C. Ltd regularised the pay scales of all these employees according to the nature of job performed by each individual workman. The concerned workman, by virtue of his duties as Cap Lamp Cabin Incharge was entitled to be placed in Clerical Grade-I, but he was being paid Clerical Grade-II wages plus the difference of basic between Clerical Grade-II and Clerical Grade-I. He made a representation to decategorise his pay scale from Clerical Grade-II to Clerical Grade-I since 1975. But no action was taken by the management whereas his junior Sri Shamsuddin Khan was placed in Clerical Grade-I. When the matter was brought to the notice of the management, his case was decided by the management by an Office Order dated 28-12-78 recategorising him in Clerical Grade-I with effect from 1-12-78. He was directed by a letter of the management dated 9-9-80 to hand over charge of Cap Lamp Cabin to Sri Daljit Singh who was also a junior to him. The matter was immediately reported to the management but no action was taken. The union also took up the matter but that too was of no avail. Ultimately the matter was referred to the General Manager, Area No. V of M/s. B.C.C. Ltd., by the union, but no result was achieved. Thereafter the union represented the matter before the A.L.C. (C) Dhanbad by letter dated 5-8-81 and conciliation proceedings ensued. But the conciliation proceedings ended in a failure due to the non-cooperating attitude of the management. Thereupon the A.L.C. submitted his report of failure of conciliation to the Central Government by letter dated 16-3-82 and the present reference has been made to this Tribunal for adjudication. It has been

asserted by the union that the action of the management in not regularising the concerned workman in Clerical Grade-I with effect from April, 1975 is not justified and that the concerned workman is entitled to be regularised in Clerical Grade-I with effect from April, 1975 or soon thereafter before the date of promotion of Sri Shamsuddin Khan his junior in service.

3. The case of the management of Nishitpur Colliery in Sijua Area of M/s. B.C.C. Ltd., as appearing from the written statement submitted, is as follows :

The reference is bad in law and not maintainable. Promotion is a function of the management and the Tribunal cannot consider the merit of various employees and decide whom to promote and whom not to promote. The question whether a particular employee should be promoted from one grade to higher grade depends not only on the length of service but also on his efficiency and other qualifications for the post to which he seeks to be promoted. The concerned workman was examined by the Departmental Promotion Committee, but he was not found suitable for promotion to Clerical Grade-I. He was Asstt. Cap Lamp Cabin Incharge in the colliery and was officiating as Cap Lamp Incharge from 1975 till he was recategorised on 28-12-82. During this period he was paid difference of wages between Grade-II and Grade-I. The union of the concerned workman in the charter of demand made on the employer and the Government, demanded his promotion in comparison to Sri Daljit Singh and not in comparison to Sri Shamsuddin Khan. The concerned workman and the employer agreed by an agreement dated 12-5-81 to refer the industrial dispute with regard to the promotion of the concerned workman for an arbitration by Sri P. R. Sinha the then General Manager under the code of discipline which is still pending. But during the pendency of the aforesaid arbitration proceeding the Central Government has made the instant reference.

According to the management, the demand of the sponsoring union for promotion of the concerned workman to Clerical Grade-I with retrospective effect from the date of promotion of Sri Shamsuddin Khan in the said post is not justified.

4. Ample opportunities were given both to the management and to the sponsoring union and also to the concerned workman to produce evidence in support of their respective claim.

5. Sri G. Prasad, learned Advocate for the management has submitted that promotion is the function of the management and that the Tribunal cannot consider the merit of various employees and decide whom to promote and whom not to promote. Needless to say that the submission of Sri Prasad is substantial. Nevertheless, the Tribunal has got every right to look into the matter as to whether the claim of a particular workman for promotion to higher grade is justified or not when unfairness and discrimination are alleged. In the present case the sponsoring union has alleged that the management has resorted to unfairness by promoting Sri Shamsuddin Khan to post of Clerical Grade I over the head of the concerned workman. In this view of the matter the present reference is not bad in law and is maintainable.

6. It appears from the pleadings that the concerned workman held the substantive post of Asstt. Cap Lamp Incharge and was officiating as Cap Lamp Incharge from 1975 till he was recategorised in Clerical Grade-I and that during this period between 1975 till his recategorisation he was paid difference of wages between Grade-II and Grade-I. In doing so, the management, it appears, has not done any wrong.

7. Admittedly the management recategorised the concerned workman from the post of Clerk Grade-II to Clerk Grade-I with effect from 1-12-78. It has been contended by Sri S. Bose, authorised representative of the sponsoring union that in doing so, the management has done injustice to the concerned workman since his junior Sri Shamsuddin Khan was promoted from an earlier date to the post of Clerical Grade-I with effect from April, 1975. The conten-

tion of Sri Bose is faulty on two counts. Firstly, the question of concerned workman is recategorisation in Clerical Grade-I while the case of Sri Shamsuddin Khan was a case of promotion. It has been asserted by the management that the concerned workman was examined by the Departmental Promotion Committee but found wanting. Secondly no evidence worth the name has been produced before me to vindicate the claim that Sri Shamsuddin Khan was junior to the concerned workman in service.

8. Considering all these facts and circumstances, I am constrained to hold that the sponsoring union has failed to justify its demand for promotion to the concerned workman to Clerical Grade-I with retrospective effect from the date of promotion of Sri Shamsuddin Khan to the said post.

9. Accordingly the following award is rendered—

The demand of Rashtriya Colliery Mazdoor Sangh, Dhanbad for promotion of Sri B. D. Mondal the concerned workman to Clerical Grade-I with retrospective effect from the date of promotion of Sri Shamsuddin Khan is not justified.

In the circumstances of the case, I award accordingly.

S. K. MITRA, Presiding Officer  
[No. I-20012(67)/82-D.III(A)/IR(Coal-I)]

का.अ. 2999:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार मैमर्स सेंद्रन कोल फील्ड्स लि. की केडला ओपन कास्ट प्रोजेक्ट के प्रबंधन के सम्बन्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (मं. 1), धनबाद के पंचपट को प्रक.शित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 2999.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1), Dhanbad as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Kedla Open Cast Project of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government.

#### ANNEXURE

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947)

Reference No. 70 of 1983.

#### PARTIES :

Employers in relation to the management of Kedla Opencast Project of M/s. Central Coalfields Ltd. Hazaribagh.

#### AND

Their Workman.

#### APPEARANCES :

For the Employers.—Sri R. S. Murthy, Advocate.

For the Workman.—Sri S. Bose, Secretary, R.C.M.S.

STATE : Bihar.

INDUSTRY : Coal

Dated, the 29th June, 1989

#### AWARD

By Order No. I-20012(111)/83.D.III(A) dated the 23rd September, 1983, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by Clause (d) of sub-section (1) of Section 10 of the Industrial

Disputes Act, 1947, referred the following dispute to this Tribunal for adjudication :—

“Whether the action of the management of Kedla Opencast Project of Messrs Central Coalfields Ltd., Hazaribagh Area is not considering the case of their workman, Sri Ram Jee Ram Pal, Clerk Grade-II for promotion from Clerk Grade-II to Clerk Grade-I when due for the first time, is justified. If not, to what relief is the workman entitled?”

2. The case of the management of Kedla Opencast Project of M/s. Central Coalfields Ltd., Kedla, Hazaribagh, as appearing from the written statement filed, details apart, is as follows :

The reference is bad in law and it is not maintainable because the promotion is the sole function of the management and no employee can claim it as of right. The substantive case of the management is that the Central Coalfields Limited has divided its collieries into various areas for the purpose of administrative convenience and more effective administration. Each Area consists of a group of contiguous collieries. The Areas were previously headed by Area General Managers who were later re-designated as General Managers. Hazaribagh Area is one of such area and includes a number of collieries of which Kedla Opencast Project is one. This Kedla Opencast Project consists of Kedla Opencast mine, Kedla North Colliery & Kedla South Colliery. All the collieries placed under a Project Officer is treated as one unit i.e. the Kedla Opencast Project. According to the rules of the management and the actual practice Clerks Grade-II (i.e. Lower Division Clerks) are considered for selection for promotion to the post of Clerks Grade I (the Upper Division Clerk) Project/Unit-wise on the basis of seniority and suitability. In this case Kedla Opencast Project consisting of Kedla Opencast mine, Kedla North Mine and Kedla South mine are one unit since they are under one Project Officer. The concerned workman was appointed as Clerk Grade-II with effect from 1-10-73. He held such a post and discharged his duties of Clerk Grade-II till 30-3-81. He was thereafter promoted to the post of Clerk Grade-I with effect from 31-3-81. During this entire period and even till 5-9-83 he did not discharge the duties of any higher post. He was transferred from Kedla North Colliery to the Office of the General Manager, Hazaribagh Area at Charhi in his existing capacity as Clerk Grade-II by Office Order dated 8-2-80. While he was working as Clerk Grade-II in the Office of the General Manager, Hazaribagh Area some of his juniors working as Clerks Grade-II in Kedla Opencast Project were selected and promoted to the post of Clerk Grade-I by a Departmental Promotion Committee with effect from 31-3-81. The Office of the General Manager, Hazaribagh is a separate unit for the purpose of consideration of Clerk Grade-II for selection to the post of Clerk Grade-I. The concerned workman represented his case through his union, Rashtriya Colliery Mazdoor Sangh by their letter dated 15-7-81 stating that he should be transferred back to Kedla North Colliery so that he might be able to get his promotion. It was also stated in the same letter that there was no possibility of his getting a chance for promotion in the Office of the General Manager, Hazaribagh which was a separate unit for the purpose of consideration of Clerk Grade-II for selection to the post of Clerk Grade-I. Accordingly the management by Office Order dated 24/27-7-81 transferred the concerned workman back to Kedla North Colliery with immediate effect. He joined his duties there. His case thereafter was considered and he was given promotion to the post of Clerk Grade I with retrospective effect from 31-3-81 by an Office Order issued on 5-9-83 i.e. the date from which his juniors in Kedla Opencast Project were promoted. He was also paid the necessary arrears. It is evident that he was given promotion when due for the first time and there is, therefore, no justification whatsoever for the present reference. In the circumstances the management has prayed that the present reference be disposed of as it has become redundant and superfluous.

3. Although neither the sponsoring union, Rashtriya Colliery Mazdoor Sangh nor the concerned workman has sub-

mitted any written statement in this case, it appears from the submission made by Shri S. Bose, authorised representative that Prabhu Singh is a contemporary of the concerned workman in service in Kedla North Colliery and Sri Singh was promoted to the post of Clerk Grade-I with effect from 1-9-75. Since Sri Singh was promoted to the post of Clerk Grade-I with effect from 1-9-75, the concerned workman should have been promoted to the post of Clerk Grade-I with effect from 1-9-75. Sri Bose has further submitted that the concerned workman joined the service of Kedla North Colliery on 1-10-73 and he should have been promoted to the post of Clerk Grade-I after expiry of four years from the his appointment. According to Sri Bose the action of the management in not promoting the concerned workman to the post of Clerk Grade-I with effect from 1-9-75 or on expiry of four years from his date of appointment as Clerk Grade-II is not justified.

4. The management has examined one witness namely MW-1 Sri C. Ram, earlier posted in Personnel and Administrative Department of Central Coalfields Ltd., and laid in evidence a mass of documents which have been marked as Exts. M-1 to M-10/1. On the other hand, the sponsoring union has not examined any witness including the concerned workman, but introduced in evidence one item of document an Office Order dated 1-9-75 marked as Ext. W-1.

5. In conformity with the case of the management Sri C. Ram who was posted firstly as Administrative Officer and later as Sr. Personnel Officer (Administration) at Kedla Opencast Project between the period from 1980 to 1987 has stated that Kedla Opencast Project is a nationalised colliery and that the project falls within the jurisdiction of Hazaribagh Area of Central Coalfields Ltd. He has further stated that Kedla Opencast Project includes Kedla Opencast mine, Kedla North colliery and Kedla South Colliery and that the Project Officer is the head of the Project. According to his testimony Kedla Opencast Project is considered as one integrated unit for the purpose of consideration of promotion from the post of Lower Division Clerk to Upper Division Clerk.

6. It is the irrefragable position that the concerned workman joined the service of Kedla Opencast Project on 1-10-73 as Clerk Grade-II which is comparable to the post of Lower Division Clerk. He continued to work as such when he was transferred from Kedla North Colliery to the Office of the General Manager, Hazaribagh Area by Office Order dated 8-2-80. The management has produced the Office Order dated 8-2-80 whereby the concerned workman was transferred from Kedla North Colliery to the Office of the General Manager (H) Ext. M-2. It appears that while he was posted as Clerk Grade-II in the Office of the General Manager at Hazaribagh some of his juniors working as Clerk Grade-II in Kedla Opencast Project were selected and promoted to the post of Clerk Grade-I by Department Promotion Committee with effect from 31-3-81. The Office Order with regard to the promotion of these workmen dated 30/31-3-81 has been marked as Ext. M-1. Thereafter the concerned workman represented through his union, Rashtriya Colliery Mazdoor Sangh by letter dated 15-7-81 that he should be transferred back to Kedla North Colliery so that he could get promotion. The representation of the sponsoring union dated 15-7-81 has been marked as Ext. M-3. It appears that the management, in response to the representation of the union, transferred him back to Kedla North Colliery by Office Order dated 24/27-7-81 (Ext. M-4). It further appears that the management considered the case of the concerned workman for his promotion to the post of Clerk Grade-I and actually promoted him to the post of Clerk Grade-I. This is evident by the letter of the Personnel Manager (H) Charhi to the Project Officer, Kedla dated 24-8-83 (Ext. M-5) and the Office Order dated 5-9-83 promoting the concerned workman to the post of Clerk Grade-I with effect from 31-3-81 (Ext. M-6). It appears from the order of promotion that the concerned workman was given full financial benefit accruing on account of this promotion with retrospective effect from 31-3-81 Ext. M-6.

7. Sri S. Bose, authorised representative of the sponsoring union has contended that Sri Prabhu Narain Singh work-

ing in Kedla North Colliery is a contemporary in service of the concerned workman. But there is no vestige of evidence to indicate that Sri Prabhu Narain Singh is a contemporary of the concerned workman in service. It appears from Ext. M-9, which is comparable to Ext. W-1 that Sri Prabhu Narain Singh, working in Kedla North Colliery was regularised in service in higher category i.e. in the post of Clerk Grade-I from the post of Clerk Grade-II with effect from 1-9-75. Thus it is seen that Sri Prabhu Narain Singh was discharging his duties in a higher post and that the management simply regularised his services in the higher post. The case of the concerned workman is not for regularisation in service but for promotion to higher post. Hence even if the concerned workman is considered to be a contemporary of Sri Prabhu Narain Singh in service, of which there is no evidence, his case does not stand on the same footing with that of Sri Prabhu Narain Singh.

8. Sri S. Bose has further contended that the concerned workman was appointed to the post of Clerk Grade-II with effect from 1-10-73 and so he should have been promoted to the post of Clerk Grade-I on the expiry of four years from the date of his appointment as Clerk Grade-II under the rules. But Sri Bose has not produced any role in support of his contention. Besides, promotion cannot be considered to be matter which comes by automatic process or by empty administrative formality. Promotion depends upon vacancy, merit, suitability and other factors. The management has got every right to take into consideration these factors in the matter of giving promotion to its employee from lower post to the higher post. Thus being so, the contention of Sri Bose is not sustainable.

9. The management has contended that the present case is not maintainable since promotion is the function of the management and the Tribunal cannot make any inroad into its jurisdiction. But this contention of the management is not sustainable, for the Tribunal has got every right to see whether the management has exercised its jurisdiction fairly and properly and without any discrimination. In this view of the matter, I consider that the present reference is maintainable in law.

10. In view of my discussion above, the inescapable position is reached that the action of the management is justified in considering the case of the concerned workman for promotion with effect from 31-3-81.

11. Accordingly the following award is rendered.—The action of the management of Kedla Opencast Project of M/s. Central Coalfields Ltd., Hazaribagh Area in promoting the concerned workman from the post of Clerk Grade-II to Clerk Grade-I with effect from 31-3-81 and not from any earlier period is justified.

In the circumstances of the case I award.

S. K. MITRA, Presiding Officer  
[No. L-20012(III)/83-D.II(A)/IR(Coal-I)]

का.प्र. 3000.—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मैसर्स भारत कोकिंग कोल लि. की लोहापटी कोलियरी के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण (सं. I), धनबाद के पंचाट को प्रकाशित करती है, जो अन्तीय सरकार को प्राप्त हुआ था।

S.O. 3000.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby published the award of the Central Government Industrial Tribunal (No. I), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Lohapati Colliery of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government.

## ANNEXURE

### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 12 of 1988

#### PARTIES:

Employers in relation to the management of Lohapati Colliery of M/s. Bharat Coking Coal Limited.

AND

Their Workmen.

#### APPEARANCES:

For the Employers—Shri G. Prasad, Advocate.

For the Workmen—Shri D. Mukherjee, Secretary, Bihar Colliery Kamgar Union.

STATE : Bihar.

INDUSTRY : Coal.

Dhanbad, the 30th June, 1989

#### AWARD

By Order No. L-20012(24)/83-D.III(A), dated, the 21st May, 1983, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by Clause (d) of sub-section (1) of Section 10 of the Industrial Disputes Act, 1947, referred the following dispute to Central Government Industrial Tribunal No. 3, Dhanbad, for adjudication. Subsequently, the dispute has been transferred to this Tribunal vide Ministry of Labour's Order No. S-11025/7/87-D.IV(B) dated 31st December, 1987/12th January, 1988.

“Whether the demand of Shri Dilip Rewani, Water Supplier at Lohapati Colliery of Messrs Bharat Coking Coal Limited for his regularisation in Category-I is justified? If so, to what relief is he entitled?”

2. The case of the concerned workmen, as appearing from the written statement submitted on his behalf by the sponsoring union, Bihar Colliery Kamgar Union, details apart, is as follows:

The concerned workman had been working as Water Mazdoor at Lohapati Colliery since 1977 with unblemished record of service. His duty was to supply water to the employees of the said colliery. He had been working continuously and regularly under the direct control and supervision of the colliery management. He was rendering services for 8 hours daily within the precinct and premises of Lohapati Colliery. The management had implemented the Wage Board Recommendations and N.C.W.As. I and II. As soon as he started demanding Category-I wages as per N.C.W.A. II and regularisation the management stopped him from service. He was/is an active member of Bihar Colliery Kamgar Union. The management of the colliery is very much biased and prejudiced against the members of Bihar Colliery Kamgar Union. It is the statutory and moral obligation of the management to supply water to its employees. The job of supply of water is of permanent nature of job. The management with an ulterior motive to deprive the poor workman had been disbursing his wages on voucher on piece-rated basis. Other workmen of M/s. B.C.C. Ltd. performing the same and similar nature of job are getting Category-I wages as per N.C.W.A. I and they are regular employees of M/s. B.C.C. Ltd. The concerned workman and his union represented before the management several times for his regularisation and for payment of Category-I wages but without any effect. Seeing no other alternative the union raised an industrial dispute before the Asstt. Labour Commissioner (C) which ended in failure due to adamant attitude of the management. Thereafter the Government of India, being satisfied with the demand of the concerned workman, referred the dispute for adjudication. It is alleged that the action of the management in not regularising him and paying him Category-I wages was illegal, arbitrary, unjustified and against the principle of natural justice. The action of the management was discriminatory and snafus of anti-labour policy. The demand of the concerned workman for his regularisation and paying of Category-I wages is legal and justified. In the circumstances, the sponsoring union has prayed that the present reference be answered in favour of the workman.



3. The case of the management of Lohapatti Colliery of M/s. Bharat Coking Coal Ltd. as appearing from the written statement submitted, benefit of details, is as follows :

The present reference is not maintainable either in facts or in law. The reference made by the appropriate Government for regularisation of the person concerned is not maintainable. The concerned person is not a workman under section 2(s) of the Industrial Disputes Act and there is no relationship of employer and employee between him and the management. He was a supplier of water to the staff quarters at Lohapatti Colliery and was paid at the rate of Rs. 0.50 paise per ghara of two tins of water on contract basis which was a stop-gap arrangement till regular supply of water was to be started by the management in the staff quarters. He supplied water not only to the staff quarters but also to the nearby shops and hotels. Staff quarters are not 'mine' under the Mines Act and the Central Government is not the appropriate Government to refer an industrial dispute relating to a person who is neither a person employed in a mine nor is a workman for adjudication. The workmen of Lohapatti Colliery as such have no direct or substantial interest in the employment or non-employment of the person concerned and so there is no community of interest between them and the concerned persons. In the circumstances, the management has prayed that the instant reference be dismissed.

4. In the rejoinder to the written statement of the concerned workman, the management has reiterated that there was no employer and employee relationship between the management and the concerned person. The employer of Lohapatti Colliery never exercised any supervision and control over him; he was supplying water to the staff quarters. He never worked in the precinct and premises of Lohapatti Colliery. He was supplying water to the staff quarters at the rate of Rs. 0.50 paise per bhar of two tins on contract basis. He was never in employment of the colliery. It has been stated that supply of water to the staff quarters is not the business of the management of the colliery and it is also not essential that water should be supplied by human labour; water is supplied through pipe. He was supplying water at the rate of Rs. 0.50 paise per bhar on contractual basis till alternative arrangement was made. Coal Wage Board Recommendations envisage that water suppliers, if employed by the coal mine, have to be paid Category-I wages but it is not obligatory to employ water supplier nor is there a bar to supply and purchase of water on contract basis. The concerned person was not an employee in a mine, and staff quarters are not covered within the definition and expression of the term 'mine' under the Mines Act.

5. The appropriate Government i.e. Central Government referred the present industrial dispute for adjudication to the Central Government Industrial Tribunal No. 3, Dhanbad. Later by another order the appropriate Government transferred the case for disposal by this Tribunal.

6. The sponsoring union has examined two witnesses, namely, W.W. 1 Dilip Rawani, the concerned workman and W.W. 2 Tanu Roy, a workman of Lohapatti Colliery and laid in evidence two items of documents—3 small note-books showing supply of water—which have been marked Exts. W-1 and W-1/2. Although ample opportunity has been given the management has not examined any witness but laid in evidence two items of documents—slips showing supply and rates—which have been marked Exts. M-1 to M-1/44 and one item of payment bill which has been marked Ext. M-2.

7. The case of the sponsoring union is that Dilip Rawani, the concerned workman, was engaged as water mazdoor by the management of Lohapatti Colliery since 1977 and that in the course of his duty Rawani was to supply water within the precinct and premises of the colliery and to the employees of the said colliery continuously and regularly under the direct control and supervision of the management. It is the further case of the union that it is the statutory and moral obligation of the management to supply water to its employees and that the management with an ulterior motive to deprive Sri Rawani, a poor workman, as disbursing his wages on voucher on piece-rated basis. The case of the management is that Rawani was never their employee and there was no relationship of employer and employee between the management and him. It is the further case of the management that he was a supplier of water on contract basis to the

staff quarters at Lohapatti Colliery and was paid at the rate of Rs. 0.50 paise per bhar of 2 tins of water which was stop-gap arrangement till regular supply of water could be started by the management to the staff quarters. The management has further stated that Rawani supplied water not only to the staff quarters but also to the nearby shops and hotels and that the management did not exercise either supervision or control over his work. It has been asserted by the management that it is not the business of the management of the colliery to supply water to the staff quarters. In other words, the management has denied that Rawani was its employee and, according to the management, he was simply a water supplier to the staff quarters of the management on contract basis at the rate of Rs. 0.50 paise per bhar of water.

8. Admittedly, Rawani was not engaged formally as water mazdoor of the management of Lohapatti Colliery. His name does not appear in the statutory register as an employee of the colliery. Nevertheless, the sponsoring union has claimed that by reason of his supplying water regularly and continuously within the precinct and premises of the colliery and to the employees of the said colliery under the direct control and supervision of the management, he should be considered to be a 'workman' of the colliery although he was paid on piece-rated basis.

9. It is the firm case of the sponsoring union that Rawani was supplying water within the precinct and premises of the colliery. "Colliery" according to Chamber's Twentieth Century Dictionary (Revised Edition) published in 1962 (Latest Impression) means a coal mine. According to Webster's New World Dictionary of American Language (2nd College Edition) 'colliery' means coal mine and its buildings, equipments etc. That being so, it appears that the case of the sponsoring union is that the concerned workman was supplying water within the precinct and premises of the coal mine operated by Lohapatti Colliery and also to the staff quarters occupied by the employees of Lohapatti Colliery. The management has stated that he was supplying water only to the staff quarters occupied by the employees of the colliery. According to the management the concerned workman was supplying water on contract basis at the rate of Rs. 0.50 paise per bhar. The management has not produced any work order or other documents of like nature to show that the concerned workman contracted to supply water to the staff quarters only. The management has simply relied on some slips showing supply of water and rates (Exts. M-1 to M-1/44) and payment bill dated 15th February, 1982 (Ext. M-2). It appears from the evidence that Rawani, the concerned workman has admitted only his signature on these documents and that the contents of the documents have not been admitted by him. Be that as it may, these slips show that different bhars of water have been recorded against different persons with the name and signature of the concerned workman. It can at best be concluded from these documents in favour of the management that the concerned workman supplied different bhars of water in different months to the staff quarters of the management. Ext. M-2 shows that water supply was billed in favour of Rawani for the period from 1st July, 1981 to 30th July, 1981. This document does not mention the place where Rawani supplied water. The management has not produced the other bills drawn in favour of Rawani for supply of water. The management could not examine any witness to explain these documents and to vouch for the fact that Rawani did not supply water within the precinct and premises of the colliery. On the other hand, the sponsoring union has laid in evidence some note books showing supply of water to different staff quarters of the colliery (Exts. W-1 and W-1/2). Dilip Rawani figuring as WW-1 has stated that he was working in Lohapatti Colliery since 1977 and that he used to supply water in the office of the colliery and also in different inclines of the mine and also in the quarters of the employees. He has further stated that he used to fetch water from the well which was within the precinct and premises of the mine and that he did not supply water anywhere else to any outsider. His further testimony is that he supplied water to the premises aforesaid from 8 a.m. to 4 p.m. and thereby performed 8 hours duty. He has also testified that he worked continuously from 1977 to 1982 and that in June, 1982 he was stopped from work without any notice. In cross-examination he has remained firm to say that he supplied water in incline also apart from four quarters and in the office. WW-2 Tanu Roy is a Waterman in Lohapatti Colliery. He has stated that he is an employee of the management



and that he has been doing the job of water supplier since 1978. He has further stated that he fetched water from the well in the premises of the colliery and supplied it to the residence of the officers. He has also stated that he knows Dilip Rawani, the concerned workman and that Dilip Rawani was doing the same job like him at Lohapatti Colliery and that he (Dilip Rawani) also fetched water from the same well and supplied it to the officers' quarters and to the pit mouth and also to the office of the colliery. He has asserted that Dilip Rawani was working from 1977 and that he saw him working for 5 to 7 years continuously for 8 hours a day.

10. Thus, the evidence of this witness firmly corroborates the evidence of Dilip Rawani, the concerned workman. This being so, the evidence of these two witnesses establishes the fact that Dilip Rawani, the concerned workman, had been supplying water to the office, staff quarters and pit mouth of Lohapatti Colliery for five years or so regularly and continuously.

11. Sri G. Prasad, learned Advocate for the management, has contended that the concerned workman supplied water to the staff quarters occupied by the employees of Lohapatti Colliery and since staff quarters do not come within the definition of 'mine' as per Mines Act, the present reference by the Central Government is incompetent and without jurisdiction. But I have discussed the evidence and come to the conclusion that the concerned workman supplied water not only to the staff quarters occupied by the employees of the colliery but to the office as well as to the pit mouth of the colliery and so it is concluded that he was supplying water to the premises called 'mine' as per definition of the Mines Act. The Central Government is the appropriate Government to refer any industrial dispute concerning a 'mine' as per definition of Mines Act for adjudication. This being the position, the contention of Sri Prasad that the present reference is incompetent and without jurisdiction is not sustainable. The sponsoring union has asserted that the concerned workman was working 8 hours a day under the direct control and supervision of the management. The management has disputed this position.

12. Control and supervision over the job of workman by the management may be direct or indirect. Job requiring a special skill or technique or sensitive jobs require constant and intensive control and supervision. But common place jobs like the one in the present case i.e. supply of water are executed by collection lift and carry method do not require constant intensive supervision or control. Control and supervision are exercised by performances, reported and recorded which the management has done by keeping the record of performance of the concerned workman.

13. Sri G. Prasad has contended that supply of water was not an obligation of the management and that supply of water by Rawani was a stop-gap arrangement. I am constrained to state that I am not impressed by this argument. Section 19 of the Mines Act envisages obligation on the part of the management for making effective arrangements to provide for and maintain a sufficient supply of cool and wholesome drinking water at suitable points conveniently situated for all persons employed in a mine. This shows that the management has got statutory obligation to maintain water supply in a mine. N.C.W.A. II which remained effective from 1st January, 1979 to 31st December, 1982 provides that the management of the coal industry have agreed to build not less than 12,000 quarters of approved type (other than low cost houses and barracks) every year during the agreement period and provide water supply and electricity in all newly constructed houses. The management also agreed that every quarter where public water supply system is not available, will be provided with a tap with drinking water within four years. Thus, it is seen that the management has committed to provide water supply to the staff quarters. It may be that the management has to go miles away to keep this commitment, yet a commitment is a commitment and the management cannot wish away or shrug off its statutory obligation and commitment. This being so, I have no hesitation to conclude that the management has a duty not only to supply water to the mine but also the staff quarters. The concerned workman was engaged by the management to supply water to the staff quarters and to the mine which is a commitment and obligation of the management. Had it not been so, the management surely would not have paid to the concerned workman for the supply of water from its own coffers.

14. Thus, it is seen that the concerned workman was rendering services to the management for the business of the management. The management, no doubt, has got economic control over the subsistence and continued employment of the concerned workman. This being the position, the management of Lohapatti Colliery is the real employer of the concerned workman and he was not a self styled contractor.

15. Sri G. Prasad has contended that since the concerned workman was not an employee of the management his reinstatement as per the term of reference does not arise. But the term of reference shall not be pedantically construed. More often than not the terms of reference are cryptic and in order to understand and appreciate the real dispute the Tribunal has to look into the pleadings of the parties. Here, in the particular case the union is claiming that the concerned workman is the workman of Lohapatti and the management is disputing that. In the context of the controversy the Tribunal is called upon to decide whether the concerned workman is really an employee of Lohapatti Colliery and that he should be given employment or not. I have decided that the concerned workman is really an employee of Lohapatti Colliery and the management is under an obligation to give him employment as Water Mazdoor in Category-I.

16. Accordingly, the following award is rendered—the demand of the concerned workman, Water Supplier of Lohapatti Colliery of M/s. B.C.C. Ltd. for employment in Category-I is justified. The management is directed to appoint him as Water Mazdoor in Category-I within one month from the date of publication of the award.

In the circumstances of the case, I award no cost.

S. K. MITRA, Presiding Officer.  
[No. L-20012(24)/83-D.III (A)/IR (Coal-I)]

सं. ३००१.—औद्योगिक विवाद अधिनियम, १९४७ (१९४७ का १४) की धारा १७ के अन्वय में, केन्द्रीय सरकार, मैमर्स गो. गो. एम. को कर्मचारी कॉलियरी की कोरा सोम दक्कन ईन के प्रबंधन से सम्बन्ध नियोजकों और उनके कर्मचारियों के बीच, अन्वय में निम्नलिखित, औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिपक्ष (सं. २) अन्वय के पचाट को प्रकटित करती है।

S.O. 3001.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employees in relation to the management of Kargali Colliery of M/s. Central Coalfields Ltd., and their workmen.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD PRESENT

Reference No. 39 of 1987

In the matter of an industrial dispute under Section 10(1)(d) of the I. D. Act, 1947.

#### PARTIES :

Employers in relation to the management of Kargali Seam Incline of Kargali Colliery of Central Coalfields Limited and their workmen.

#### APPEARANCES :

On behalf of the workmen.—Shri Saffique Khan, General Secretary, United Coal Workers Union.

On behalf of the employees.—Shri R. S. Murthy, Advocate.

STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 18th October, 1989

#### AWARD

The Govt. of India, Ministry of Labour, in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-24012/85/86-D.IV(B), dated, the 31st December, 1986.

## SCHEDULE

"Whether the action of the Management of Karo Seam Incline of Kargali Colliery, P. O. Bermo Dist. Giridih in terminating the services of Shri Uday Ram Coal Cutter is legal and justified? If not to what relief the concerned workman is entitled?"

Soon after the receipt of the order of reference the same was registered. Subsequently instead of filing W. S. both the parties appeared before me and filed a Joint Compromise petition. I heard both the parties on the said petition of compromise and I do find that the terms contained therein are fair, proper and beneficial to both the parties. Accordingly, I accept the same and pass an Award in terms of the Joint Compromise petition which forms part of the Award as annexure.

I. N. SINHA, Presiding Officer  
[No. L-24012/85/86-D.IV (B)]IR (Coal-I)]

## ANNEXURE-A

BEFORE THE CENTRAL GOVT. INDUSTRIAL  
TRIBUNAL NO. 2, DHANBAD

Ref. No. 39 of 1987 (arising out of Order No. L-24012/85/86-D.IB(B) dated 31-12-86 of the Ministry of Labour, Govt. of India, New Delhi).

## PARTIES :

Employers in relation to the Management of Kargali Colliery of Central Coalfields Limited P. O. Bermo, Distt : Giridih.

AND

Their Workmen

JOINT COMPROMISE PETITION OF EMPLOYERS  
AND WORKMEN

Joint Compromise Petition of Employers and workmen.—  
The above mentioned Employers and Workmen most respectfully beg to submit jointly as follows :—

- (1) That the Employers and Workmen/Sponsoring Union have jointly negotiated the matter covered by the above reference with a view to arriving at a mutually acceptable amicable and overall agreement.
- (2) That as a result of such negotiations, the Employers and the workmen/sponsoring Union agreed to settle mutually the dispute in question on the following terms :—
- (a) It is agreed that the workman concerned shall be reinstated by the management in the post of Miner/loader (Piece-rated Group V-A within 15 days of this joint compromised petition being accepted by this Hon'ble Tribunal on the same basic piece-rated wage being drawn by him at the time of termination of his employment which will be fixed at the corresponding stage under the N.C.W.A-IV (plus allowances under NCWA-IV).
- (b) It is agreed that the workman concerned shall not be entitled to any back wages or benefits for the intervening period between the date of termination of his services i.e. 3-12-1984 and the date of reinstatement as indicated in sub-clause (a) above. However, the workman concerned shall be entitled to continuity of service.
- (c) It is agreed that If the workman concerned absents in future from service in an unauthorised manner in violation of the relevant provisions of the certified standing orders of the colliery,

his case will not be taken up by the Sponsoring Union.

(d) is agreed that this is an overall agreement in full and final settlement of all the claims of the workman concerned/sponsoring union arising out of the aforesaid reference.

(3) That the Employers and the workmen/sponsoring union hereby declare jointly that they consider the aforesaid terms of agreement fair, just and reasonable to both the parties.

In view of the above, the Employers and the workmen/sponsoring union jointly pray that the Hon'ble Tribunal may be pleased to dispose of the reference/dispute in terms of this joint Compromise Petition and give an award accordingly.

SHAFIQUE KHAN,  
GENERAL SECRETARY,  
UNITED COAL WORKERS'  
UNION.

For & on behalf of workmen.  
PROJECT OFFICER,  
Dy. CHIEF MINING ENGINEER/  
AGENT, KARGALI COLLIERY,  
For & on behalf of Employers.  
UDAI RAM  
WORKMAN CONCERNED  
WITNESSES :  
RAL. S. MURTHY,  
ADVOCATE  
FOR EMPLOYERS.  
1. SANTAN RAJAN  
Secretary, New Kargali Colliery,

Sd/-

2. Illegible

Dated, this 13th day of September, 1989

का.प्र. 3002:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मैसूर भारत कोकिंग कोल लि. की ईस्ट कटरम कोलियरी के प्रबंधन में सम्बद्ध नियोक्ता और उनके कर्मचारों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 1), धनबाद के पंचाट को प्रकटित करती है।

S.O. 3002.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of East Katras Colliery of M/s. Bharat Coking Coal Ltd. and their workmen

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL NO. 1, DHANBAD

In the matter of a reference under section 10(1)(d)  
of the Industrial Disputes Act, 1947.

Reference No. 15 of 1984

## PARTIES :

Employers in relation to the management of East Katras Colliery of M/s. Bharat Coking Coal Limited.

AND

Their Workmen.

## APPEARANCES :

For the Employers.—Shri B. Joshi, Advocate.

For the Workmen.—Shri J. D. Lall, Advocate

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 29th September, 1989

## AWARD

By Order No. L-20012(205)83-D.III(A), dated, the 12th March, 1984, the Central Government in the Ministry of Labour, has, in exercise of the powers conferred by clause (d) of sub-section (1) of section 10 of the Industrial Disputes Act, 1947, referred the following dispute for adjudication to this Tribunal :

"Whether the demand of Rashtriya Colliery Mazdoor Sangh that the workmen listed in the Annexure below should be treated as permanent workmen of East Katras Colliery of Messrs Bharat Coking Coal Limited, is justified? If so, to what relief are these workmen entitled?"

## ANNEXURE

Name of the workmen.

1. Shri Duryodhan Prasad
2. Shri Shiv Kumar Prasad
3. Shri Dwarki Prasad
4. Shri Bashdev Prasad
5. Shri Shankar Prasad
6. Shri Ashok Kumar Tiwari
7. Shri Baneswar Rewani
8. Shri Dhannjaya Mishra
9. Shri Sadhu Prasad
10. Shri Devnandan Prasad
11. Shri Naresh Prasad
12. Shri Sadho Prasad
13. Shri Ram Shakal Prasad
14. Shri Vilandar Prasad
15. Shri Vinod Kumar Yadav
16. Shri Tapan Yadav
17. Shri Chhatu Yadav
18. Shri Bisambhar Singh
19. Shri Ganga Prasad
20. Shri Kaleswar Padav
21. Shri Ramashis Singh
22. Shri Baleswar Yadav
23. Shri Mahinder Yadav
24. Shri Indar Dev Yadav
25. Shri Banshi Yadav
26. Shri Gur Rajwar
27. Shri Ratan Rajwar
28. Shri Tahal Biswakarma
29. Shri Mahadev Yadav
30. Shri Alrudev Prasad
31. Shri Rupan Prasad
32. Shri Nandu Gop
33. Shri Baleswar Yadav
34. Shri Devbihari Prasad.

2. The case of the concerned workmen, as appearing from the written statement submitted by the sponsoring union, Rashtriya Colliery Mazdoor Sangh, details apart, is as follows :

The concerned workmen were engaged as stone cutters at East Katras Colliery of M/s. Bharat Coking Coal Limited since 1973. They had been performing the said job continuously in the underground working of the mine. They were under the complete control, supervision and direction of the sponsoring union for getting the concerned persons were rendering services for the management. In violation of Contract Labour (Regulation and Abolition) Act the management adopted unfair labour practice by introducing an intermediary whose function was merely to supply workers and pay them at the rate of Rs. 8 per diem without any fringe benefits. This was also verified by the Labour Enforcement Officer (Central) in course of inspection. Some other workmen working in the similar capacity numbering about 40 have been regularised as permanent workers of the management. They were also employed through intermediary. The action of the management in not treating the concerned workmen as permanent workmen of East Katras Colliery of M/s. B.C.C. Ltd., is in contravention of the Acts, Rules, Regulation and orders made thereunder.

In the circumstances the sponsoring union has prayed that all the concerned workmen should be treated as permanent stone cutters of East Katras Colliery of M/s. B.C.C. Ltd. atleast from 1-5-1973 with consequential reliefs, such as, back wages and fringe benefits.

3. The case of the management of East Katras Colliery of M/s. B.C.C. Ltd. as appearing from the written statement, briefly stated, is as follows :

The present reference is not maintainable. The demand of the sponsoring union for getting the concerned persons treated as permanent workmen is without any basis. There are innumerable persons who want to be employed with the help of the unions, but the management is helpless to provide job to all such persons. The concerned persons except one or two are outright strangers and there is no reason to consider their claim for employment under the management. It appears that one or two persons worked for sometime on the surface of the mine as contractor's workers on contract job of temporary, casual and civil nature. None of the concerned persons worked underground either as direct employees of the management or as contractor's employees. The present reference is not an industrial dispute since there exists no relationship of employer and employee between the management and the concerned persons. The management took a policy decision to make the employees of the contractors engaged in stone cutting job and allied prohibitory category of jobs permanent provided they completed 190 days of attendance in a calendar year as prescribed in the relevant circular. This policy decision was adopted in consultation with all the major trade unions and the present union is a party to that consultation. It appears that the union is making attempt to induct the concerned persons into employment on the basis of the said circular. The union claimed before the Asst. Labour Commissioner (C), Dhanbad, that the concerned persons were stone cutters and they should be made permanent. The assertions were found to be false as because none of the concerned persons ever worked as stone cutters during 1978, 1979 and 1980. In the circumstances the management has prayed that the demand of the union is illegal and unjustified and hence it should be rejected.

4. In the rejoinder to the written statement of the employer the sponsoring union has asserted that the present reference is maintainable and that the demand of the union for treating the concerned workmen as permanent employees of M/S. B.C.C. Ltd. is based on justified ground. All the concerned workmen have worked in East Katras Colliery, both in the underground and on the surface of the mine, under the so called contractor for years together. The work done by them is of permanent nature which is proved by length of service put in by them. These workman worked in underground mine as stone cutters and also in other connected jobs for several years. Although they worked in underground mine as well as on the surface mine for years together, they were employed through dubious intermediary to ignore the relationship of Master and Servant with an ulterior motive and under a camouflage, but even the presence of dubious intermediary cannot hide the real relationship of Master and Servant. Stone cutting job in underground mine was prohibited by the Central Government way back in 1975 and these concerned workmen continued to work as stone cutters in underground mine till 1985. In 1986 the Head Quarter of M/S. B.C.C. Ltd. took a decision to employ all workmen who were engaged in underground mine on stone cutting job as Miners/Loaders and all pending cases before Tribunals in regard to such matters were to be compromised. In pursuance to this decision the union took up the case of the concerned workmen for their employment as miners/loaders and the management agreed to compromise this case and accordingly a direction was issued by the Headquarter in this regard. But due to obdurate and defiant attitude of the Area Management the case could not be compromised.

5. In rejoinder to the written statement of the concerned workman the management has stated that the concerned persons were not employed as stone cutters at any time. The

management appointed contractors for doing certain jobs in accordance with the provisions of Contract Labour (Regulation and Abolition) Act and the workmen of the contractors were paid wages at par with the workman of the management depending upon the nature of job performed by them. The contractor used to take work from their workers and were paying them wages. The management in course of time abolished contract system to the extent possible in all spheres of work and departmentalised the contract workers who had put 190 days of attendance in a calendar year. In the process when the stone cutting job by contract system was abolished, the stone cutters of the contractors who had put 190 days of attendance in a calendar year were departmentalised. As the concerned workmen did not work as stone cutters and did not put in 190 days of attendance in a calendar year the question of their departmentalisation did not arise.

6. The sponsoring union submitted a supplementary statement of demand on behalf of the concerned workmen. In the supplementary statement the union has stated that East Katras Colliery is a coking coal mine which was taken over by the Central Government with effect from 17-10-71 and the colliery was nationalised with effect from 1-5-72 and since then M/S. B.C.C. Ltd. is the owner and employer of East Katras Colliery. The erstwhile employer used to engage Contractor/Commission Contractor for execution of various work in the mines including stone cutting, underground raising of coal and other works. The employer of East Katra Colliery engaged Sahdeo Tewary as Commission Contractor for the purpose of stone cutting in the underground mine and he used to supervise the work of stone cutting job by the workmen under his charge according to the direction and instruction of the management. He used to get commission at the rate of 3% of the wages paid workmen under his charge for stone cutting and other connected miscellaneous work. Sahdeo Tewary used to prepare wage bills of his workmen according to quantum of work done and as per rate fixed by the management and used to submit bills for payment of wages to the workmen. He used to disburse the wages to the workman according to the quantum of work done by each of them. The management used to supply all the implements, such as, picks, helmets, baskets, boots, shovels and cap lamps to the concerned workmen for stone cutting job. Their attendance was used to be marked in Form 'C' Register prescribed under the Mines Act and maintained by M/S. B.C.C.Ltd. The concerned workmen were not paid any quarterly bonus, profit sharing bonus, sick leave wages, line wages and other allowances as admissible under the Coal Wage Board Recommendation, except the wage according to rate fixed by the management for the work done. The erstwhile owner used to engage contractor/commission contractor as more work could be done at lesser cost. The concerned workmen regularly worked on stone cutting job under Sahdeo Tewary in various mines of East Katra Colliery, such as, Pit Nos. 1, 2, 3, 4, 5 and Incline Nos. 1/11, 3/4, 9A, 3/10, 5A, 6/A and K. G. Incline since 1973 and worked as such till early part of 1985. When Sahdeo Tewary became sick sometime in 1979-80, his son Ashok Kumar Tewary was made Commission Contractor and the concerned workmen in this dispute started working under Ashok Kumar Tewary since then. The Government of India under the provision of Contract Labour (Regulation and Abolition) Act, 1971 abolished the contract work in underground mine in 1975 including stone cutting job, but the concerned workmen continued to work as before till early part of 1985 when they were stopped from work by the management because of the industrial dispute. Stone cutting job in underground mine has been departmentalised in all the collieries of M/s. B.C.C.Ltd. between 1973 and 1976 and the workers working as stone cutters under the contractors were also departmentalised and taken on the rolls of M/s. B.C.C. Ltd. as regular workmen. But in the case of the concerned workmen they were not departmentalised and they continued to work till the early part of 1985 when they were stopped from work altogether. Stone cutting job is a permanent nature of job existing throughout the year. The management of M/S. B.C.C. Ltd. took a policy decision to regularise and enroll all workmen who were working as stone

cutters in different coalfields of M/s. B.C.C. Ltd. as Miners/Loaders and accordingly the union represented the case of the concerned workmen to the Headquarter of M/s. B.C.C. Ltd. for their regularisation/employment as Miners/Loaders in East Katras Colliery. The Headquarters accordingly issued an order for their absorption as Miners/Loaders in East Katras Colliery, but the same was overruled by the local management. The concerned workmen were workmen of M/S. B.C.C. Ltd. in facts and in law and the management of East Katras Colliery cannot hide this fact by adopting camouflaged middle man under the name of Commission Contractor. Since M/s. B.C.C.Ltd. had departmentalised the work of stone cutting job in underground mine way back 1973 to 1976 there was no valid reason to continue stone cutting job under the so called Commission Contractor in violation of this policy and in violation of provisions of Contract Labour (Regulation & Abolition) Act. In the interest of justice and fair play the union has demanded that the concerned workmen should be regularised and treated as permanent workmen of M/S. B.C.C. Ltd. and be reinstated in their original job of stone cutters or even as Miners/Loaders with continuity of service and full back wages for the idle period.

7. In rejoinder to the supplementary statement of demand of the sponsoring union for the concerned workman, the management has stated that Sahdeo Tewary was not a Commission Contractor for stone cutting work. There was no Commission Contractor for stone cutting job and Sri Tewary was not supervising stone cutting job according to the direction and instruction of the management. The management used to supply helmet and cap lamps on daily basis to contractor's workmen engaged in stone cutting job in underground mine and their attendance used to be marked in Form 'C' Register as per provisions of Mines Act and Mines Rules. It is not correct to suggest that the concerned persons were engaged in stone cutting job or they were supplied with equipment or materials. It is also incorrect to suggest that they worked as stone cutters till early part of 1985. After the prohibition of contract system in stone cutting job the management discontinued contract system in stone cutting job in 1975 and employed temporary and casual stone cutters as and when required by giving chance to contractors' workers. After observing working skill of different contract workers 38 stone cutters were regularised as casual/temporary stone cutters in 1982. Subsequently they were made permanent. As the concerned persons were not working as stone cutters at any time they were never included in the said list. Different collieries have different conditions of mining and according to requirements the stone cutters were regularised in phases after 1975. The question of employing the concerned workmen as Miners/Loaders was considered on representation of the union but as they were not genuine stone cutters and were strangers, their case could not be considered. It is incorrect to suggest that approval from Headquarter was obtained for their absorption.

8. The sponsoring union, Rashtriya Colliery Mazdoor Sangh in order to sustain its demand, has examined four witnesses, namely, WW-1 Sahdeo Tewary, WW-2 Ashok Kumar Tewary, WW-3 Raghu Gope, WW-4 Binod Kumar Yadav and laid in evidence a sheaf of documents which have been marked Exts. W-1 to W-16/1. On the other hand, the management has examined three witnesses, namely, MW-1 Binoy Bhushan Pal, working as Senior Survey Officer in East Katras Colliery since 1983, MW-2 P. Jha who worked as Senior Personnel Officer in East Katras Colliery from September, 1982 to March, 1986 and MW-3 Birendra Singh posted as Dy. Personnel Manager in Katras Project Area since May, 1987 and laid in evidence a number of documents which have marked Exts. M-1 to M-6.

9. Admittedly the present industrial dispute relates to East Katras Colliery of M/s. B.C.C.Ltd. It is an admitted position that East Katras Colliery is a coking coal mine which was taken over by the Central Government with effect from 17-10-71 and subsequently the colliery was nationalised with effect from 1-5-72 and that since then M/s. B.C.C. Ltd. is the owner and employer of the said colliery.

10. The case of the sponsoring union is that the workmen listed in the annexure to the reference were engaged as stone

cutters at East Katra Colliery since 1973 and that these these workmen were engaged through contractors Sahdeo Tewary and later his son Ashok Kumar Tewary and that the concerned workmen performed their job continuously in the underground working of the mine under the complete control, supervision and direction of the management. On the other hand, the case of the management is that the concerned workmen except one or two are out-right stranger and that none of them was employed underground either as direct employees of the management or as contractor's employees and that they were not employed as stone cutters at any time.

11. There is no dispute that stone cutting job through agency of contract system in underground mine was prohibited from 1975 under the provisions of Contract Labour (Regulation and Abolition) Act, 1970.

The case of the sponsoring union is that the concerned workmen worked as stone cutters in East Katras Colliery since 1973 under the contractor Sahdeo Tewary and that when Sahdeo Tewary became ill sometime in 1979-80 his son Ashok Kumar Tewary became the contractor and that both Sahdeo Tewary and Ashok Kumar Tewary were Commission Contractors.

WW-1 Sahdeo Tewary has stated in his testimony that he was employed as Stone Cutting Contractor in East Katras Colliery from 1968 to 1979. Nothing has been elicited from him in cross-examination impugning on this facts. WW-2 Ashok Kumar Tewary has stated in his testimony that his father Sahdeo Tewary was a Stone Cutting Contractor in East Katras Colliery and that he was working as contractor from before nationalisation. His further testimony is that his father fell ill in 1974 and remained so till 1975 and that the management asked him to work as Contractor in place of his father which he did and that he worked as Contractor in East Katras Colliery and personally worked as workman upto 1985-86. MW-2 P. Jha has stated that while he worked in East Katra Colliery he saw Ashok Kumar Tewary working as Contractor in that colliery. Measurement Books (Ext. M-1 series) establish the fact that Ashok Kumar Tewary was engaged as a contractor in East Katras Colliery by the management. Thus the inescapable conclusion is reached upon the evidence on record that initially Sahdeo Tewary was engaged as a contractor in East Katras Colliery and consequent upon his illness Ashok Kumar Tewary, his son, was engaged as contractor in East Katras Colliery by the management.

12. The sponsoring union has claimed that both the Tewaries were engaged as Stone Cutting Contractors and that the concerned workmen, working under them, were engaged in stone cutting job in underground mine.

13. The case of the management is that Tewaries were never engaged as Stone Cutting Contractors and that except one or two persons none of the concerned workmen worked under them.

Sahdeo Tewary in his testimony has stated that he was employed as Stone Cutting Contractor in East Katras Colliery and that stone cutting is done in the underground mine of the colliery and that some 45 to 50 workmen used to work under him. It is his further testimony that stone cutting in mine is a continuous process and all the concerned workmen used to work under him and that they started so working under him from 1972-73 and that he used to get 3% commission from the management. MW-2 Ashok Kumar Tewary has stated that all the workmen listed in the reference used to work under him and his father and that the management of the colliery stopped him giving work sometime in 1986. WW-3 Raghu Gane has been working as Mining Sirdar in East Katras Colliery since 1979. He has stated that Sahdeo Tewary a Contractor for stone cutters and that some 40-45 workmen were working under him and that consequent upon his illness his son Ashok Kumar Tewary used to work as Contractor of stone cutters of the said colliery. WW-4 Binod Kumar Yadav, one of the concerned workmen, has stated that he and other concerned workmen used to work in underground mine of East Katras Colliery as stone cutters under the contractor Sahdeo Tewary and that they worked till the beginning of 1986 when the management stopped them from doing work. MW-1 Binoy Bhusan Pal has stated that some occasional works have been done in the colliery for con-

necting the two sides of the fall and for crossing the dyke for the seams, and that they employed other contractors besides Tewaries for doing these jobs. MW-2 P. Jha has stated that he saw Ashok Tewary working as a Contractor in the colliery, but Ashok Tewary did never employ 20 or more persons and that he did not obtain licence for employing 20 or more persons.

The Manager, East Katra Colliery, by letter dated 14-9-74 addressed to Sahdeo Tewary had stated that work orders for stone cutting jobs were undertaken by Sahdeo Tewary from time to time (Ext. W-1). Again by letter dated 7-8-74 addressed to Sahdeo Tewary, Stone Cutting Contractor, East Katras Colliery the Manager informed him to be present before Labour Enforcement Officer (Central) on 10-8-74 at 3 P.M. for inspection purpose (Ext. W-2). By a slip dated 24-3-83 MW-1 Binoy Bhusan Pal requested the Attendance Clerk, 10-A Incline to allow persons of Ashok Kumar Tewary numbering 18 for stone cutting job at K. G. Incline surface (Ext. W-9). The Measurement Books (Ext. M-1 series) are indicative of the fact that Ashoke Kumar Tewary was engaged as a Contractor for doing stone cutting jobs and other jobs even after the stone cutting job was declared prohibited category of job in underground mine.

The management has produced the registration certificate for engaging contractor (Ext. M-6). This certificate of registration is dated 25-7-75 and its enclosure disclose the name of Sahdeo Tewary as Contractor in civil engineering with a maximum number of seven contract labour to be employed by him and that his employment as contractor was intermittent throughout the year. MW-3 has stated that although this registration certificate dates back to 1975 his certificate is valid for all times to come. But that cannot be the legal and factual position because the evidence disclose that Ashok Kumar Tewary was engaged by the management in place of his father Sahdeo Tewary and in such circumstances under Rule 18(4) of the Contract Labour (Regulation & Abolition) Central Rules, 1971, the management of East Katras Colliery as principal employer of the establishment had a duty to intimate the Registering Officer within 30 days from the date when there was any change in the particulars specified in the certificate of registration. In the certificate of registration the name of Ashok Kumar Tewary should have been found place in place of his father Sahdeo Tewary. But the management did not produce any certificate of registration issued in favour of Ashok Kumar Tewary. Hence the certificate of registration cannot be accepted as durable piece of evidence both with respect to the nature of engagement of the contractor and also as to the maximum number of contract labour employed by him.

Rule 74 of Contract Labour (Regulation & Abolition) Central Rules, 1971 envisages that every principal employer shall maintain in respect of each registered establishment a register of contractors in Form XII. MW-3 Birendra Singh has admitted that they maintain such register but he has not seen such register in Katras Project Area. The management has not produced that register and had that register been produced that would have disclosed the name of the contractor, nature of work on contract, period of contract and maximum number of workmen employed by the contractor.

14. Upon consideration of evidence on record I come to the inescapable conclusion that Sahdeo Tewary and later his son Ashok Kumar Tewary were engaged as contractors by the management of East Katras Colliery and that under the contract they had done stone cutting job in the underground mine even after prohibition imposed under the Contract Labour (Regulation & Abolition) Act against employing contractor in stone cutting job in underground mine.

15. The sponsoring union has asserted that all the concerned workmen worked in East Katras Colliery as stone cutters under the contractor since 1973 and that they used to work under the control supervisions and direction of the management and that their work implements were used to be supplied by the management.

The management has asserted that except one or two persons other workmen are strangers and that the management

used to supply only helmet and cap lamps to the contractor's workmen and the management had no control, or supervision over their job.

WW-1 Sahdeo Tewary has stated in his testimony that all the concerned workmen started working under him for the colliery since 1972-73 and that stone cutting operation in mine is a continuous process of job. WW-2 Ashok Kumar Tewary has stated that all the listed workman used to work under him and his father and the work tools and materials were used to be supplied by the management for stone cutting and that as contractors they had been regularly engaged by the management with their men for executing works of the colliery from before nationalisation till 1985 and that stone cutting jobs were performed in the underground of the mine. WW-3 Raghu Gope, Mining Sirdars, East Katras Colliery has stated that Sahdeo Tewary was a contractor of stone cutting in East Katras Colliery and that some 40 to 45 workman were working under him and all the stone cutting job in the colliery was used to be done by him. He has further stated that consequent upon the illness of Sahdeo Tewary, his son Ashok Kumar Tewary used to work as contractor of stone cutters in the said Colliery and he had seen the contractor and his men working in the colliery from before 1979 to the end of 1985. He has asserted that work implements and materials were used to be supplied by the management for doing stone cutting job and the workmen of the contractor were supplied with cap lamps, boots etc. by the management and that the stone cutting job is a regular feature in the colliery. WW-4 Binod Kumar Yadav, one of the concerned workman, has stated that he along with other concerned workmen used to work in underground mine of East Katras Colliery as stone cutters under the contractor and that their work implements were used to be provided by the management and the management used to supervise their work through mining Sirdar, Overman and Munshi. Photo copy of the slip dated 23-3-1982 (Ext. W-9) indicates that MW1 Binoy Bhusan Pal was requesting the Attendance Clerk to allow the persons of Ashok Kumar Tewary, Contractor for stone cutting job and he gave a list of 18 workmen there most of whom are the concerned workmen. By another slip dated 23-3-82 (Ext. W-11), MW-1 Sri Pal requested the Attendance Clerk at 10-A Incline to allow the persons of Ashok Kumar Tewary, Contractor, for stone cutting and he gave the numbers of 28 workmen of Ashok Kumar Tewary both in the underground and on the surface. I have already pointed out that the management has not produced the register of contractors disclosing the name of contractors, nature of work on contract, location of contract work, period of contract work and maximum number of workmen employed by the contractor.

The management has produced from 'C' registers (Ext. M-3 series). But in none of the registers the name of the concerned workmen including the contractor appears. Admittedly, Sahdeo Tewary and Ashok Kumar Tewary and their men worked in underground mine of the colliery and so the name of contractors and their workmen should have found place in these registers. In the circumstances, I come to the conclusion that these registers are not complete Form 'C' registers maintained by the colliery. As a matter of fact Ashok Kumar Tewary has asserted that the management used to maintain a separate Form 'C' register for contractor and his workmen. In the context of facts and circumstances as emerged in evidence his claim cannot be ignored.

The sponsoring union has produced some slips of papers (Ext W-10 series) showing requisitions of some working implements from the Stores of the management.

16. Considering the evidence on record and non-production of material evidence by the management, I am constrained to hold that the concerned workmen used to work in East Katras Colliery both as underground stone cutters and other works on surface and in underground mine for long and that the management had control and supervision over their job.

17. There is no vestige of evidence on record to indicate that Ashoke Kumar Tewary held a valid license as a Contractor. It is the admitted position that the management used to pay the Wages of the concerned workmen through the contractor according to the measure of work done by them. If the management engaged the service of workmen and paid their wages through contractor, having no valid license, the

contractor will have no existence in the eye of law and it would lead to the position that there is direct relationship between the management and the workmen engaged through contractor (1985 (1) LLJ. 492 Madras).

18. It is the definite case of the sponsoring union that the management of M/s. B.C.C.Ltd. took a policy decision to regularise all workmen who were working as stone cutters under its contractors in different collieries of M/s. B.C.C. Ltd. as Miners/Loaders and accordingly the union represented the case of the concerned workmen to the Headquarter of M/s. B.C.C.Ltd. for their regularisation/employment as Miners/Loaders in East Katras Colliery and that Headquarter accordingly issued an order for their absorption as Miners/Loaders in East Katras Colliery but the same was scuttled by the local management for reasons not known to the workmen. In answer to this assertion the management has simply stated that the statements are incorrect and as such denied. But the fact cannot be ignored by such denial. The stubborn fact is that the Headquarter of M/S. B.C.C.Ltd. took a policy decision by circular dated 8/9-5-86 (Ext. W-13). The circular reads as follows :

"Company's board has already approved the additional requirement of Miners/Loaders in this company. This matter was also discussed in the Central Consultative Committee Meeting held on 26-4-1986 wherein some important decisions have been taken. The entire matter was also explained to the General Managers in the coordination meeting taken up by the CMD on 26-4-86. It has been decided to meet this additional requirement through the following sources. .

1. Partly by implementing awards/settlements/agreements and by fulfilling the commitments and assurances given by the management.
2. Partly by recruitment through employment exchange from amongst SC/ST candidates and land lesers for which registration and selection Test substantive been scheduled to take place from 5th May to 10th May, 1986.

As regards cases indicated in para-1 above, the following categories will be covered :—

1. Cases of miners/loaders who have been dismissed/terminated due to long absenteeism and there are awards and settlements for taking them back in employment.
2. Cases of Miners/Loaders whose names have been removed from the colliery roll without following the normal disciplinary procedure and their disputes are pending either in conciliation or before the Tribunal for adjudication or are pending with the management for disposal.
3. Delisted casuals.
4. Underground contractors workers engaged in prohibited cat.
5. Co-operative workers.
6. Voluntary retirement cases.
7. Pending cases of land leasers.
8. Agreements with the unions and assurance given to the unions/State Govt. for giving employment on different grounds including compassionate ground cases (This is limited to specific agreement/assurance). With a view to implement our decision with regard to these cases following action is required to be taken in each type of case :

Underground contractors' workers engaged in prohibited category.

Such underground contractors' workers who have put in 190 days attendance in underground in prohibited categories in any calendar year during the last three years may be considered Miners/Loaders subject to fulfilment of the following conditions:—

- (i) He should not be more than 40 years of age.
- (ii) He should be medically fit;

(iii) There should be proper identification of the reasons" Thereafter, Sri B. N. Jha, Personnel Manager (WJD) of M/s. B.C.C.Ltd. at Koyla Bhavan informed the General Manager, Katras Area by letter dated 25-7-1986 that the C.M.D. had approved the employment of the concerned workmen of the present reference as Miners/Loaders after entering into a settlement under section 58 (4) of the Industrial Disputes (Central) Rules, 1957 with the union and on certain other conditions (Ext. W-12). The local management evidently ignored this letter and decided to contest the matter. No reasonable explanation has been offered by the management as to why it did prefer to contest the case when it was the direction of the Headquarter to employ the concerned workmen as Miners/Loaders and to settle the case.

However, considering the fact and circumstances of the case and the evidence on record I come to the conclusion that the concerned workmen are entitled to be regularised in service either as stone cutters or miners/Loaders provided they are found otherwise fit.

19. Accordingly, the following award is rendered—the demand of Rashtriya Colliery Mazdoor Sangh for regularisation of the concerned workmen as workmen of East Katras Colliery is justified. The management is directed to regularise their services either as miners/loaders or as stone cutters of the colliery from the date of reference i.e. 12-3-1984 within one month from the date of publication of the award. The management is also directed to pay them 50 per cent of back wages and continuity of service from the date of reference as mentioned above.

In the circumstances of the case, I award no cost.

S. K. MITRA, Presiding Officer

[No. L-20012(205)/83-D.III (A)/IR(Coal-I)]

नई दिल्ली, 15 नवम्बर, 1989

का. प्र. 3003—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मैसर्स भारत कोकिंग कोल लि. की धर्मबंद कोलियरी के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 1) धनबाद के पंचाट को प्रकाशित करता है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

New Delhi, the 15th November, 1989

S.O. 3003.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 1), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Dharmaband Colliery of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, DHANBAD

In the matter of a reference under section 10(1)(d) of the Industrial Disputes Act, 1947

Reference No. 51 of 1983

#### PARTIES

Employers in relation to the Management of Dharmaband Colliery of M/s. Bharat Coking Coal Limited.

AND

Their Workmen.

#### APPEARANCES.

For the Employers—Shri B. Joshi, Advocate.

For the Workmen—Shri S. Bose, Secretary, Rashtriya Colliery Mazdoor Sangh.

STATE : Bihar.

INDUSTRY : Coal.

Dated, the 14th June, 1989

#### AWARD

The present reference arises out of Order No. L-20012 (25)/83-D.III(A), dated, the 6th July, 1983, passed by the Central Government in respect of an industrial dispute between the parties mentioned above. The subject matter of the dispute has been specified Schedule to the said order and the said Schedule runs as follows :

"Whether the action of the management of Dharmaband Colliery of Messrs Bharat Coking Coal Limited, in removing Shri Santosh Kumar Singh, Night Guard from service with effect from the 16th December, 1976, was justified? If not, to what relief is the said workman entitled?"

2. The dispute has been settled out of Court. A memorandum of settlement has been filed in Court. I have gone through the terms of settlement and I find them quite fair and reasonable. There is no reason why an award should not be made on the basis of terms and conditions laid down in the memorandum of settlement. I accept it and make an award accordingly. The memorandum of settlement shall form part of the award.

3. Let a copy of this award be sent to the Ministry as required under Section 15 of the Industrial Disputes Act, 1947.

S. K. MITRA, Presiding Officer

[No. L-20012(25)/83-D.III(A)/IR(Coal-I)]

#### ANNEXURE-A

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, AT DHANBAD

Ref. No. 51/83

Employers in relation to the Management of Dharmaband Colliery of M/s. Bharat Coking Coal Limited.

AND

Their workmen.

#### PETITION OF COMPROMISE

The humble petition on behalf of the parties to the above reference case most respectfully sheweth :—

1. That the Central Government vide notification No. L-20012(25)/83-D.III(A) dated 6th July, 83 has been pleased to refer the present dispute on the following issue :

#### SCHEDULE

"Whether the action of the management of Dharmaband Colliery of M/s. Bharat Coking Coal Ltd., in removing Shri Santosh Kumar Singh, Night Guard from service with effect from 16th Dec., 1986, was justified? If not, to what relief is the said workman entitled?"

2. That, the parties have amicably settled the dispute on the following terms:

#### TERMS OF SETTLEMENT

(a) The concerned workman Sri Santosh Kumar Singh will be allowed to join his duties within 7 days from the date of reporting for his duties. The concerned workman must report for his duties within 30 days from the date of this settlement failing which it will be deemed that he is not interested for his job and will not have any right his job.



- (b) The concerned workman's continuity of service will be maintained by treating the period of his idleness from 16-12-76 till his resumption of duty as leave without wages and he will not be entitled to wages, bonus or any other dues for the idle period in question.

(c) The present dispute stands resolved.

3. That, in view of the above settlement there remains no issue for adjudication.

Under the facts and circumstances stated above the Hon'ble Tribunal will be graciously pleased to accept the terms of settlement as fair and proper and be pleased to pass the Award in terms of the settlement.

For the Employers

S. N. P. Rai,  
General Manager,  
Govindpur Area.

For the workman  
(G. D. Pandey),  
Vice President,  
R.C.M.S.

(S. P. Singh),  
Personnel Manager,  
Govindpur Area.

Witnesses :

1. Sd/- (S. S. Prasad)

2.

का. भा. 3004—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार, मेसर्स भारत कोकिंग कोल लि. की बसदेवपुर कोलियरी के प्रबंधन से सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुबंध में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, (सं. 2) धनबाद के पंकट को प्रकाशित करती है, जो केन्द्रीय सरकार को प्राप्त हुआ था।

S.O. 3004.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal (No. 2), Dhanbad as shown in the Annexure in the industrial dispute between the employers in relation to the management of Basudeopur Colliery of M/s. Bharat Coking Coal Ltd. and their workmen, which was received by the Central Government.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL (NO. 2) AT DHANBAD

PRESENT :

Shr I. N. Sinha, Presiding Officer.

Reference No. 115 of 1987

In the matter of an industrial dispute under Section 10(1)(d) of the I.D. Act, 1947

PARTIES :

Employers in relation to the management of Basudeopur Colliery of M/s. Bharat Coking Coal Limited and their workmen.

APPEARANCES :

On behalf of the workmen—Shri Jagdish Pd. Singh,  
Vice President, J.M.S. Union.

On behalf of the employers—Shri G. Prasad, Advocate.  
STATE : Bihar.

INDUSTRY : Coal.

Dated, Dhanbad, the 17th October, 1989

#### AWARD

The Govt. of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I.D. Act, 1947 has referred the following dispute to this Tribunal for adjudication vide their Order No. L-20012 (297)/86-D.III(A), dated the 13th April, 1987.

#### SCHEDULE

"Whether the demand of Janta Mazdoor Sangh that the management of Basudeopur Colliery of BCCL should provide employment to a dependant of their workman, Shri Shree Prasad Mahato, in terms of Para 9.4.3 of the National Coal Wage

Agreement-II is justified? If so, to what relief is the said workman entitled?"

In this case both the parties appeared and filed their respective W.S. documents etc. Subsequently at the stage of oral evidence both the parties appeared before me and filed a compromise petition. I heard both the parties on the said petition of compromise and I do find that the terms contained therein are fair, proper and beneficial to both the parties. Accordingly, I accept the same and pass an Award in terms of the compromise petition which forms part of the Award as Annexure.

I. N. SINHA, Presiding Officer  
[No. L-20012(297)/86-D.III(A)/IR(Coal-1)]  
K. J. DYVA PRASAD, Desk Officer

#### ANNEXURE-A

BEFORE THE PRESIDING OFFICER, CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, DHANBAD

Reference No. 115 of 1987

PARTIES :

Employers in relation to the management Basudeopur Colliery of M/s. B.C.C.L.

AND

Their workmen.

(Compromise Petition)

The humble joint petition of compromise on behalf of the parties most respectfully sheweth.

(1) That, the Central Government, New Delhi, by a Notification No. L-20012(297)/86-D.III (A) dated 13-4-1987 has referred the instant industrial dispute as per Schedule noted below, for an adjudication U/S 10(1)(d)(2A) of the Industrial Disputes Act, 1947, to this Hon'ble Tribunal.

#### SCHEDULE

"Whether the demand of Janta Mazdoor Sangh that the management of Basudeopur Colliery of M/s. B.C.C.L. should provide employment to a dependant of their workman, Sri Shree Prasad Mahto, in terms of Para 9.4.3 of the National Coal Wage Agreement-III is justified? If so, to what relief is the said workman entitled?"

2. That, the parties discussed the matter in the Joint Committee themselves and have settled the instant industrial dispute on the following terms and conditions :

#### TERMS AND CONDITIONS

- (i) That, the one dependent of Shri Shree Prasad Mahto shall be provided employment as per decision of the HQR.
- (ii) That, the dependent concerned shall be nominated by Shri Shree Prasad Mahto in writing witnessed by two independent witnesses which shall not be revocable any time.
- (iii) That, no other dependent of Shri Shree Prasad Mahto shall have any claim whatsoever with respect to employment.
- (iv) That, in case any dispute arises interse, in future between the dependents of Shri Shree Prasad Mahto, the employer shall not be bound by any such settlement/agreement or otherwise which they may arrive at.
- (v) That, the dependent concerned should be physically fit and suitable for employment and aged below 35 years of age as provided in para 9.4.3(ii) of the National Coal Wage Agreement-III.
- (vi) That the dependent nominee concerned shall be referred to the Medical Board of the Company for Medical Examination and determination of his age, if no proof of age is produced, which shall be final and binding.
- (vii) That the dependent nominee concerned shall submit proof of his age of Birth/age before he is employed and is allowed to resume duty.



(viii) That, in case there is no recorded evidence of birth like School Leaving Certificate, Horoscope prepared at the time of birth and others, the nominee dependent concerned and Shri Shree Prasad Mahfo both shall swear affidavits before a Notary Public and file the same in original with the employer. Age once recorded shall not be challenged in any manner whatsoever in future.

(ix) That, the appointment of the nominee shall be subject to the verification of his character and antecedent by the local Police before he is allowed to resume duty and in case such nominee is found to be of doubtful integrity, he may not be allowed to resume. He shall simultaneously produce good moral Certificate from the B.D.O./Circle Officer of his permanent place of residence.

(x) The nominee concerned shall be on probation for such period, as provided under the Certified Standing Orders of the Company. His other terms and conditions shall be governed under the said Certified Standing Orders.

(xi) This settlement resolves all the disputes between the parties and neither the union concerned nor the workman and his nominee dependent shall have any claims whatsoever.

(xii) That, the settlement is fair and proper.

(xiii) That, it was resolved that copies of this settlement be filed before the Hon'ble Tribunal and the Hon'ble Tribunal be requested to pass an award in terms of the aforesaid settlement.

It is, therefore, prayed that your honour may be graciously pleased to pass an award in terms of the settlement.

And for this act of kindness the parties shall ever pray.

Representing Workmen:

- (1) Sd/- Illegible
- (2) Sd/- Illegible

Representing Employer

- (1) Sd/- Illegible
- (2) Sd/- Illegible

Witnesses :—

(1) Name Ramchij Singh  
President Basdeopur Colliery JMS.  
Full address  
Vill.  
P.O. :  
PS :  
Dist. :

(2) Name Jugesh Pd. Singh (Vice President)  
CH Dhund JMS  
Full address  
Vill.  
P.O. :  
PS :  
Distt.

Sd/- Illegible, Advocate

नई दिल्ली, 10 नवम्बर, 1989

का.प्र. 3005—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार भारतीय जीवन बीमा निगम, विशाखापटनम के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच, अनुसूचन में निर्दिष्ट औद्योगिक विवाद में राज्य सरकार औद्योगिक अधिकरण, रामकाटे, हैदराबाद के पंचपट को प्रकाशित करती है।

New Delhi, the 10th November, 1989

S.O. 3005.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Sangli Bank Limited and their workmen.

## ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. I, BOMBAY

PRESENT :

Mr. Justice M. S. Jamdar, Presiding Officer.

Reference No. CGIT-36 of 1987

PARTIES :

Employers in relation to the management Sangli Bank Limited,

AND

Their workmen.

APPEARANCES :

For the Management—Mr. M. B. Anchan, Advocate.

For the Workmen—Mr. Sathye, Advocate.

INDUSTRY : Banking STATE : Maharashtra  
Bombay, the 29th day of July, 1988

## AWARD

The Central Government, in exercise of the powers conferred by clause (d) of sub-section (1) and sub-section 2(A) of Section 10 of the Industrial Disputes Act, 1947 has referred the following dispute to this Tribunal for adjudication :

"Whether the action of the General Manager, The Sangli Bank Limited Sangli in reverting Shri Sham L. Chavan, a confirmed clerk in the bank to the post of sub-staff w.e.f. 3-7-86 is legal and justified? If not, to what relief the workman is entitled to?"

2. The workmen represented by the General Secretary, Sangli Bank Employees Union filed their statement of claim and the Employer, the Sangli Bank Ltd. filed written statement contesting the claim. However, today the parties filed a joint application/pursis stating that the parties have come to an amicable settlement and praying for an award in terms of the settlement arrived at.

3. The terms of the settlement are as follows :—

"1. Both the parties agreed that whatever stands and counters taken by both the parties against each other stand as withdrawn in view of the settlement.

2. Shri Sham Laxman Chavan who was reverted to sub-staff cadre from clerical cadre from 3rd July 1986 and was posted as 'Care Taker' at Head Office, shall now be deemed to be posted in clerical cadre w.e.f. 3rd July 1986 and all consequential benefits such as pay scale etc. shall be given and paid to him. The management agrees to pay the arrears, subject to normal deductions, within one month from this date.

3. The Union and the workman concerned agree that they shall not reopen the case of Shri Sham Laxman Chavan at any forum hereafter on any count.

4. Both the parties would bear their own respective costs."

4. The settlement is fair and is in the best interest of harmonious industrial relations in general and both the parties in particular. I therefore pass an award in the above quoted terms of the settlement, with a direction that the management to pay to the concerned workman all the consequential arrears within one month from today.

M. S. JAMDAR, Presiding Officer  
[No. L-12012/20/87-D.IV (A) [IR (Bank-I)]]

का.प्र. 3006—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में, केन्द्रीय सरकार मयूरकशी ग्रामीण बैंक के प्रबंधन के सम्बद्ध नियोजकों और उनके कर्मचारों के बीच अनुसूचन के निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण धनबाद के पंचपट को प्रकाशित करती है।

S.O. 3006.—In pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Dhanbad as shown in the annexure, in relation to the management of Mayurakshi Gramin Bank and their workman.

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL (NO. 2) AT DHANBAD

## PRESENT :

Shri I. N. Sinha, Presiding Officer.

Reference No. 32 of 1988

In the matter of an industrial dispute under Section 10(1)(d)  
of the I. D. Act, 1947

## PARTIES :

Employers in relation to the management of Mayurakshi  
Gramin Bank and their workmen.

## APPEARANCES :

On behalf of the workmen—Shri P. K. Goswami, Ad-  
vocate.On behalf of the employers—Shri R. S. Sharma, Ad-  
vocate.

STATE : Bihar

INDUSTRY : Banking

Dhanbad, the 13th February, 1989

## AWARD

The Government of India, Ministry of Labour in exercise of the powers conferred on them under Section 10(1)(d) of the I. D. Act, 1947 had referred the following dispute to the Central Government Industrial Tribunal, Asansol vide their Notification No. L-12012(112)/85-D.II (A) dated, the 19th March, 1986. Subsequently the said reference was transferred to this Tribunal vide Ministry's Order No S-11025/7/87-D, IV (B) dated 31-12-87.

## SCHEDULE

"Whether the action of the management of Mayurakshi Gramin Bank, Siuri in terminating the services of Shri Ghanashyam Mukhopadhyaya with effect from 1-6-1982 is justified? If not, to what relief is the workman concerned entitled?"

The case of the management is that the concerned workman Shri Ghanashyam Mukhopadhyaya (hereinafter referred to as Shri Mukhopadhyaya) was working as Junior Clerk-cum-Field Assistant in Mayurakshi Gramin Bank Palsa Branch. He was dismissed from service after holding a domestic enquiry with effect from 1-6-82. The concerned workman was chargesheeted for violation of Regulations, 16, 17, 19 and 22(1) of Mayurakshi Gramin Bank (Staff) Regulations, 1980. The allegation against him was that the concerned workman while serving at Maureswar Branch openly expressed his unwillingness to perform the field duties allotted to him. Even when he remained present in the office he did not go to his filed work in spite of repeated instructions and direction, from superior authorities causing irreparable loss and injury to the management. He also misbehaved and showed insubordinate attitude against his superior authorities. It was also alleged that during the period of his service at Maureswar Branch and Palsa Branch of the Bank he intentionally absented without any intimation and without having obtained proper permission from his superior authority. The concerned workman absented himself from his office from 29-5-81 to 1-6-81 without any application for leave and without showing any reason for his absence while he was working in Maureswar Branch. He further absented from his duty from 4-11-81 to 21-1-82 without intimation and without obtaining proper permission from his superior authority. He intentionally disobeyed the direction of the Chairman during the period of his service at Maureswar Branch of the Bank. He also used ill decorated language while writing to the Chairman of the Bank. It is further alleged that the concerned workman was transferred to the Palsa branch from Maureswar branch of the Bank by the Chairman under his letter dated 19-9-81 and 23-9-81 but the concerned workman willfully violated the transfer order. He also intentionally violated the instruction given to him by his superior authority.

The enquiry was conducted in presence of the concerned workman and he was given full opportunity to cross-examine the management's witness and to give his own statement and to produce witnesses in his defence.

The case of the concerned workman is that the charges levelled against him were false. It is stated that throughout his service period all normal field duties assigned for the development of the business were performed by him honestly and faithfully. When he was directed and instructed through letter dated 10-6-81 by the Branch Manager Maureswar Branch to perform some type of field duties giving the outline of the work and knowing that after making an experimental tour tried to convince that those were really contradictory in nature to implement and he did not perform the field duties. He carried all the normal orders of his superior authority. He had absented from Maureswar branch on medical ground and after joining at Palsa branch he faced crucial problem and thereafter absented himself after applying for extraordinary leave. He had served the branch faithfully and honestly to promote the interest of the Bank. The language used in his letter dated 5-8-81 addressed to the Chairman was for the purpose of convincing him in response to his letter and he did not mean any disrespect to the Chairman. He had prayed for leave and also for stay of his transfer order showing reasonable ground vide his letter dated 25-9-81. He was unable to join his duties at Palsa branch due to many problems like (1) stoppage of his salary, (2) want of accommodation (3) leave record sent to Palsa branch required interpretation (4) he was also directed to do some major official work which was not the authorised duty. On the above facts it is submitted on behalf of the concerned workman that he was innocent and the charge against him was not established. It is prayed that the concerned workman be reinstated with full back wages with effect from 1-6-82.

The learned Advocate appearing on behalf of the concerned workman submitted before the Tribunal that he does not challenge the fairness and validity of the enquiry proceeding and that he is withdrawing his petition regarding the same. As such vide order dated 9-8-88 after hearing the parties it was held that the enquiry proceeding against the concerned workman was fair, proper and in accordance with the principles of natural justice.

Now the points for decision are (1) whether the management has established the charges levelled against the concerned workman and (2) whether the termination of the services of the concerned workman on the alleged charges are justified.

## Point No. 1

The management examined Shri Sishir Kumar Goswami Branch Manager Mayurakshi Gramin Bank, Palsa Branch and Shri Sandip Kumar Dey, Manager, Mayurakshi Gramin Bank Maureswar Branch. The documents filed before the Enquiry Officer was marked Ext. 1 to 24. The concerned workman had given his statement before the Enquiry Officer but did not examine any witness in his defence.

I will take up the discussion of each charge separately.

The chargesheet along with the annexures are marked Ext. M-1 in this case. The charges are described as article of charge in Annexure I to the chargesheet. Annexure II of the chargesheet contains the statement of imputation of misconduct and misbehaviour in support of the articles of the charges framed against the concerned workman. The first charge in the chargesheet Ext. 1 against the concerned workman is that the concerned workman who was functioning as Junior Clerk-cum-field Assistant openly expressed his unwillingness to perform the field work allotted to him. It is admitted by the concerned workman that the tour programme fixed by the Manager, Mayurakshi Gramin Bank Maureswar Branch was received by him and that he had gone on tour on 12-6-81. On his return he did not find any reason to go on tour and he verbally informed the manager accordingly. Shri S. K. Dey, Manager of Maureswar branch stated in his evidence before the Enquiry Officer that the concerned workman did not carry out his instruction in spite of repeated verbal orders. He further stated that the concerned workman did not go on tour programme fixed by him except on 12-6-81. He further stated that the concerned workman did not submitted

in writing expressing his unwillingness to go on tour for field duties when the concerned workman was asked to submit the facts in writing. It is admitted by the concerned workman that he did not find it necessary to submit his statement in writing to Shri Dey. The document marked Ext. 1 by the Enquiry Officer is a letter from the Manager, Maureshwar branch to the Chairman, Mayurakshi Gramin Bank dated 20-5-81 by which the Chairman was informed that the concerned workman remained absent from his office duties frequently without any intimation and does not perform his office duty. It was further stated that the concerned workman openly expressed his unwillingness to perform his field work as allotted to him by the Branch Manager and as such the field work are being hampered very badly. It also stated that even when the concerned workman remain present in the office he does not go to the field in spite of repeated instructions from the branch Manager. Ext. 2 is a letter from the Manager, Maureshwar Branch to the concerned workman dated 10-6-81 in which it is stated that in spite of repeated instructions by the Branch Manager he did not go out in the field to perform his field duty and that he was absent from his duties and he was often absenting from his duty without previous intimation. The tour programme from 11-6-81 prepared by the Manager was enclosed along with the letter and the said tour programme forms part of Ext. 2. The duties to be performed in the field by the concerned workman are set out in the tour programme. The tour diary of the concerned workman was marked as Ext. 24 to show that the concerned workman did not perform the field duties as stated in Ext. W-2. There is no allegation against Shri S. K. Dey as to why he would depose falsely against the concerned workman. There is nothing in his cross-examination to discredit his evidence. Ext. M-6 is a letter dated 12-2-82 written by the concerned workman to the enquiry authority in which he has clearly stated while giving the explanation to charge No. 1 that when he was directed and instructed through letter dated 10-6-81 by the Branch Manager Mayurakshi Branch to do field duties and after making experimental tour he tried to convince that those field work were contradictory in nature to implement. He clearly suggested that the concerned workman did not comply with the instruction of the Branch Manager of the Maureshwar Branch and did not do the field work according to the programme set out by the Branch Manager except on 12-6-81. The above evidence therefore shows that the concerned workman openly expressed his unwillingness to perform the field work allotted to him in spite of repeated instructions and direction from his superior authority. Clause 16 of Mayurakshi Gramin Bank (Staff) Service regulations 1980 (Ext. M-11) provides that every officer or employee shall be an whole time office or employee of the bank and shall be at the disposal of the bank and shall serve the Bank in its business in such capacity and as such places as he may from time to time be directed by any person or persons under whose jurisdiction superintendence or control he may for the time being be placed. Clause 17 provides that every officer or employee of the Bank shall conform to and abide by the regulations and shall observe, comply with and obey all orders and directions which may from time to time be given to him by any person under whose jurisdiction, superintendence or control he may for the time being be placed. Clause 19 provides that every officer or employee shall serve the bank honestly and faithfully and shall use its utmost endeavour to promote the interest of the Bank and shall show courtesy and attention in all transactions and intercourse with the officers of Government and the Bank's constituents. It will thus appear that the management has been able to establish charge No. 1 against the concerned workman. I further hold that charge No. 2 regarding his insubordinate attitude against his superior authority also has been established.

Regarding charge No. 3 it is stated that the concerned workman absented himself from his duty from 29-5-81 to 1-6-81 without any application for leave or showing any reason for such absence. It is further alleged that the concerned workman absented himself from his office from 4-11-81 to 12-1-82 without any intimation and without having obtained permission from his superior authority. In his statement before the Enquiry Officer the concerned workman stated that he had verbally informed the Manager of Maureshwar Branch regarding his absence from 29-5-81 to 1-6-81 after resuming his duties. Admittedly he submitted an application for leave for those days. In Ext. M-2 the concerned workman stated that he absented from the office from 29-5-81 to 1-6-81 owing to his illness and during that time he was

under the treatment of a village doctor and that he stated about the same to the Branch Manager when he joined his office. The witness Shri S. K. Dey stated that the concerned workman had not filed any application nor any medical certificate was produced for grant of leave for the period of his absence. Ext. 12 dated 31-7-81 written by the concerned workman to the Manager Mayurakshi Gramin Bank Maureshwar Branch has been referred by the learned Advocate appearing on behalf of the concerned workman. It shows that the concerned workman had written the said letter in response to the letter of the Manager dated 31-7-81 in which he has stated that if it is possible in any way to adjust leave for those days the same may be done otherwise the amount of salary for the period of his absence may be deducted. This letter Ext. 12 was written long after he had joined his office after his absence from 29-5-81 to 1-6-81. Moreover Ext. 12 was written in reply to the letter of the Manager Ext. 11. The said Ext. 12 therefore cannot be treated as an application for leave for the period 29-5-81 to 1-6-81.

It is also alleged that he absented without leave from 4-11-81 to 21-1-82. In this respect the case of the concerned workman is that he was facing some crucial problem after joining at Palsa and hence he absented himself from 4-11-81 applying for extraordinary leave on 18-11-81. The said evidence of the concerned workman is stated in Ext. M-2. It is clear therefore that the concerned workman had absented himself from 4-11-81 to 21-1-82 and he had not applied for leave prior to his proceeding on leave. It is evident from his case that he had applied for extraordinary leave on 18-11-81 i.e. after he had remained absent for 14 days. Ext. 13 is the said application by the concerned workman to the Branch Manager Palsa Branch of Mayurakshi Gramin Bank. It is stated that he may be granted extraordinary leave from 4-11-81 as he could not arrange for his accommodation at Palsa and problems arising regarding salary and leave records. There is note of Palsa branch Manager on this application for leave Ext. 13 in which it is stated that there is no other staff in Palsa branch and that the application had not been submitted in due time and therefore the leave was not sanctioned. There was absolutely no valid reason to proceed on extraordinary leave from 4-11-81 without obtaining order of leave. No reason has been assigned as to why the concerned workman did not apply for the said leave before absenting and that he applied only on 18-11-81 when he had already absented for 14 days without even applying for leave. From the evidence discussed above it is clear that the concerned workman had absented from 29-5-81 to 1-6-81 without any application and without obtaining any order for his absence. The evidence in the case further shows that the concerned workman absented from 4-11-81 to 21-1-82 without any previous intimation and without obtaining permission for leave from his authority. Clause 22(1) of Ext. M-11 provides that an employee shall not absent himself from his duties without having obtained the permission of the competent authority nor shall he absent himself in case of sickness or accident without submitting a proper medical certificate. It further provides that an employee who absents himself from duty without leave except under circumstances beyond his control for which he must tender a satisfactory explanation and he shall not be entitled to draw any pay or allowance for the period of such absence and shall further be liable to such disciplinary measure as the competent authority may impose. It appears therefore that the charge under clause 22(1) of Mayurakshi Gramin Bank Service Regulation has been violated and the management has been able to establish the said charge against the concerned workman.

The other important charge against the concerned workman is included in charge No. 6 and 7. It is alleged that the concerned workman was transferred to Palsa branch from Maureshwar Branch by the Chairman vide his letter dated 19-9-81 and 23-9-81 but the concerned workman wilfully violated the same. It is further alleged that he was informed by the Branch Manager, Palsa branch through his letter dated 12-1-82 under Regd Post that his application dated 18-11-81 for extraordinary leave as prayed for by him from 4-11-81 was rejected and as such the concerned workman was instructed to join the office within 3 days from the date of receipt of the letter but the concerned workman did not join his duties although he had received the Registered letter on 14-1-82. In Ext. M-2 the concerned workman stated that he has prayed for leave and has also prayed for his stay of transfer order showing reasonable ground in his letter

dated 25-9-81. He also stated that he had received the letters dated 12-1-82 and 21-1-82 from the Branch Manager, Palsa branch and had applied for extraordinary leave on 18-11-81 as all other leave had been exhausted by the concerned workman. Ext. 14 dated 19-9-81 a letter from the Chairman to the concerned workman by which the concerned workman was advised to report to Head Office immediately for further instruction as he was to be posted at Palsa branch of the Bank. Ext. 15 dated 21-9-81 is a letter from the Manager, Maureshwar Branch to the concerned workman by which the concerned workman was released with effect from the closing hours of 21-9-81 and he was advised to report to the Head Office immediately for further instruction. Ext. 16 dated 21-9-81 is a leave application by the concerned workman to the Chairman Mayurakshi Gramin Bank. He has stated that he is unable to accept the transfer order immediately and as such he may be granted leave from 22-9-81 to 1-10-81. Ext. 18 is in reply to Ext. 15 by the Chairman informing the concerned workman that the leave prayer of the concerned workman on the ground of his inability to accept the transfer order immediately is refused and he was directed to follow the instructions contained in the letter dated 23-9-81. Ext. 19 and 20 dated 25-9-81 and 18-11-81 are also letters from the concerned workman to the Chairman giving the reasons as to why he is not joining at Palsa. Those reasons were not sufficient expressing good cause for not joining at the place of his transfer. It is clear therefore that the concerned workman violated the order of his transfer and did not join on flimsy and untenable grounds. In view of the above I hold that the management has been able to establish the charges No. 6 and 7 against the concerned workman.

In charge No. 5 it is alleged that the concerned workman addressed a letter to the Chairman of the Bank on 5-8-81 using ill decorated language. The concerned workman has stated in Ext. M-2 that the language used in the letter dated 5-8-81 was for the purpose of convincing the Chairman in response to his letter. In his statement before the Enquiry Officer the concerned workman stated that if those was any ill decoration of his letter dated 5-8-81 addressed to the Chairman it was not intentional. Ext. 3 is a letter dated 5-8-81 which is not happily worded and it may be because of the bad English language of the concerned workman. I have seen his letters which are marked exhibit in the case. It shows that his English language is poor and is not able to express his feelings in a submissive and respective language. I do not therefore feel to hold the concerned workman guilty of charge No. 5.

Regarding charge No. 4 it is alleged that the Chairman addressed a letter dated 13-6-81 to the concerned workman drawing his attention to certain provision of Service Regulation and also instructed him to serve bank honestly and faithfully to promote the interest of the Bank but the concerned workman intentionally disobeyed the said instruction. This is a charge of general type and in this connection specific charges have been framed against the concerned workman. The concerned workman therefore cannot be held to be guilty for charge No. 4 which is of general nature and the charge relating to the specific matter has already been framed against the concerned workman.

In view of the discussions made above I hold that the management has been able to establish the charge No. 1, 2, 3, 6 and 7 against the concerned workman.

#### Point No. 2

It appears from the evidence discussed above that the concerned workman was not performing the work assigned to him, was absenting from his work without permission and without applying for leave and he also did not obey the transfer order from Maureshwar branch to Palsa branch on flimsy ground. The concerned workman therefore appears to be insubordinate not only on one occasion but on several occasions. As such the punishment of termination of services on the established charge against the concerned workman is not severe.

In the result, I hold that the action of the management of Mayurakshi Gramin Bank in terminating the services of the concerned workman Shri Ghanashyam Mukhopadhyaya with

effect from 1-6-82 is justified and consequently the concerned workman is entitled to no relief.

This is my Award.

I. N. SINHA, Presiding Officer  
[No. L-12012/112/85-D.JV (A)]IR (Bank-I)]

का.आ. 3007:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार बम्बई मर्कैंटाइल को-ऑपरेटिव बैंक लिमिटेड के प्रबन्धतंत्र के संबद्ध नियोक्तों और उनके कर्मचारों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बम्बई के पंचपट को प्रकाशित करती है।

S.O. 3007.—In pursuance of section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bombay as shown in the annexure, in the industrial dispute between the employers in relation to the management of Mercantile Co-operative Bank Limited and their workman.

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

#### PRESENT

Shri P. D. Apshankar, Presiding Officer.  
Reference No. CGIT-2/18 of 1987

Employers in relation to the management of Bombay  
Mercantile Co-operative Bank Ltd.

#### AND

Their workmen.

INDUSTRY : Banking

STATE : Maharashtra

Bombay, dated the 10th June, 1988

#### AWARD

A reference has been made by the Central Government by their Order No. L-12012/44/86-D.IV(A) dated 23-3-1987 under clause (d) of sub-section (1) and sub-section (2A) of Section 10 of the Industrial Disputes Act, 1947 to this Tribunal for adjudication on the following two points :—

"1. Whether the action of the management of Bombay Mercantile Co-operative Bank Limited, Bombay in relation to its branch at Malad in terminating the services of Shri B. V. Khan, Peon-cum-watchman w.e.f. 3rd January, 1986 is justified? If not, to what relief is the workman concerned entitled?

2. Whether the management of Bombay Mercantile Co-operative Bank Limited is justified adopting the practice of barring from recruitment of any relatives or employees of the Bank through they possess all the essential requirements of qualification etc.?"

2. The case of the Bombay Mercantile Co-operative Bank Employees' Union, of which Shri B. V. Khan is a member in short is thus :—

Shri B. V. Khan was interviewed by the said management for the post of Peon-cum-Watchman and was appointed in the subordinate cadre in the Bank on probation in permanent vacancy by Bank's letter dated 23-9-1985. Thereafter the Bank by their letter dated 29-1-1985 informed Shri Khan that his services would be terminated with effect from 1-1-1986 as it was found by the Bank that the brother of the workman was working in the said Bank. Thereafter Shri Khan made representation to the Personnel Adviser of the Bank. As no valid and affective steps were taken by the Bank in the matter, the Union approached the Assistant Labour Commissioner (C), by its letter dated 24-12-1985. Shri Khan attended to his work upto 2-1-1986 but he was prevented from attending the duties and he was

not allowed to sign the muster-roll thereafter. It is the case of the Union that the management of the aforesaid Bank had not called upon the workman to give explanation before issuing the letter terminating his services. The allegation of the Bank that Shri Khan had not disclosed the name of his brother, who was in service in that Bank does not warrant the termination of his services. The Union therefore prayed this Tribunal to pass an order directing the Bank to reinstate Shri Khan with full back wages and other benefits and also to give direction to the management of the said Bank not to adopt the policy of not recruiting any relative of the employee working in the Bank, who otherwise fulfils the normal requirements for the said post.

3. The above said Bank by their written statement dated 25-5-1987 opposed the prayer of the said Union and in substance contends thus ---

In the application for appointment Shri Khan had stated that no relative of his was in service of that Bank. However, he had suppressed this fact from the Bank, as it was found that his brother was already in service in that Bank. Hence the termination of services of Shri Khan was proper and legal. As per the terms of the application form a candidate was to furnish correct information to the Bank, and Shri Khan had committed a breach of the rules in that respect. As such, the request of Shri Khan for reinstatement should not be granted.

During the pendency of this reference, the above said parties came to a settlement, and filed the terms of settlement which are thus :—

"1. It is agreed that the Bank shall re-employ afresh Shri B. V. Khan as a new recruit as a confirmed Peon in the Bank with effect from 9th November, 1987.

2. In consideration of the Bank having agreed to re-employ Shri B. V. Khan with effect from 9th November, 1987, Shri B. V. Khan does not press his demand in the above reference for continuity of service and further also does not press for any back-wages and drop the same.

3. As regards the rule of recruitment of the relatives of the employees of the Bank are concerned, it is agreed that the Bank shall consider employing close relatives of the employees who have displayed integrity beyond doubt, who possess all the essential requirements, qualifications etc. and if such relative is otherwise eligible for employment on merits and closeness of relationship. However, it is agreed that such facility of employment of a relative of an employee shall only be allowed and extended to one close relative (Son, Daughter, Spouse, Brother and Sister) and that only subject to availability of an existing vacancy.

5. I find that the above said settlement is in the interests of both the parties and quite fair. Hence I find that an award must be passed in terms of said settlement.

The Award be passed in terms of the above said settlement.

P. D. APSHANKAR, Presiding Officer  
[No. L-12012/44/86-D.IV(A)/IR(Bank-I)]

नई दिल्ली, 15 नवम्बर, 1989

का.आ. 3008:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वये में, केन्द्रीय सरकार कर्कर वषय बैंक लिमिटेड, कर्कर के प्रबन्धन के संबन्ध में नियोजकों और उनके कर्मचारों के बीच, अमुकवष में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रधिकरण के अन्तर्गत के पंचपट को प्रकाशित करती है।

New Delhi, the 15th November, 1989

S.O. 3008.—In pursuance of section 17 of the Industrial Dispute Act 1947 (14 of 1947), the Central Government hereby publishes the award of the Industrial Tribunal, Bangalore as shown, in the annexure, in the industrial dispute between the employers in relation to the management of Karur Vysya Bank Ltd., Karur and their workman.

# BEFORE THE INDUSTRIAL TRIBUNAL, TAMIL NADU MADRAS

Wednesday, the 1st day of February, 1989

PRESENT :—

THIRU K. NATARAJAN, M.A., B.L.,  
Industrial Tribunal.

INDUSTRIAL DISPUTE NO. 10 of 1988

In the matter of the dispute for adjudication under Sections 10 (1)(d) of the Industrial Disputes Act, 1947 between the workmen and the Management of Karur Vysya Bank Limited, Karur, Trichy District).

BETWEEN —

The workmen represented by the General Secretary,  
Karur Vysya Bank Employees Union Avenue  
Road, Bangalore-560002.

The General Manager, Karur Vysya Bank Ltd., Karur,  
Tiruchirappalli District.

REFERENCE :—

Order No. L. 12012/102/86-D. IV (A), dated 14-8-1987  
of the Ministry of Labour, Government of India,  
New Delhi.

This dispute coming on this day for final disposal in the presence of Thiruvallargal T. S. Gopalan, P. Ibrahim Kulifulla and S. Ravindran. Advocates appearing for the Management upon perusing the reference, claim and counter statements and other connected papers on record and the workmen being absent, this Tribunal passed the following :—

## AWARD

This dispute between the workmen and the Management of Karur Vysya Bank Limited, Karur arises out of a reference under Section 10(1)(d) of the Industrial Disputes Act, 1947 by the Government of India in its Order No. L-12012/102/86-D. IV (A), dated 14-8-1987 of the Ministry of Labour for adjudication of the following issue :—

"Whether the action of the Management of Karur Vysya Bank Ltd. in relation to their Gudalur Branch in dismissing Shri P. Manoharan from service w.e.f. 9-7-1986 is justified? If not, to what relief the workman concerned is entitled".

2. Parties were served with summons.

3. Petitioner—Union filed its claim statement putting forth the claim of the workmen. In repudiation thereof the Management filed their counter statement.

4. In spite of several adjournments, the Petitioner-Union did not appear. No representation was made on its behalf.

5. Today also when the dispute was called, Petitioner-Union was absent. No representation was made on behalf of the Union though the case was passed over. Management was represented by counsel.

6. Hence Industrial Dispute is dismissed had for fault and an award is passed accordingly.

Dated, this 1st day of February, 1989.

THIRU K. NATARAJAN, Industrial Tribunal  
[No. L-12012/102/86-D. IV (A)/IR (Bank-J)]

का.जा. 3009:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भागीरथ ग्रामीण बैंक, सीतापुर के प्रबन्धता के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुसूच में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण कानपुर के पंचपट को प्रकाशित करती है।

S.O. 3009.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the annexure, in the industrial dispute between the employers in relation to the management of Bhagirath Gramin Bank, Sitapur, and their workman.

BEFORE SHRI ARIAN DEV, PRESIDING OFFICER  
CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL-CUM-LABOUR COURT,  
KANPUR.

Industrial Dispute No. 18 of 1989

In the matter of dispute between :

Shri Harish Chandra Singh, Village—Pooran (Dhakwa Bazar) P. O. Amargarh, Distt. Pratapgarh, Uttar Pradesh,

AND

The Chairman Bhagirath Gramin Bank Post Box No. 12, Civil Lines, Sitapur (U. P.).

AWARD

1. The Central Government, Ministry of Labour, vide its Notification No. L-12012/9/88-D. III (A), dated 18-11-89, has referred the following dispute for adjudication to this Tribunal :

Whether the Chairman Bhagirath Gramin Bank, Sitapur was justified in terminating the services of Shri Harish Chandra Singh as Typist with effect from 18-8-1986 in violation of Section 25F of I.D. Act, 1947 ? If not, what relief the workman was entitled to ?

In the instant case on 20-6-1989, parties filed settlement requesting that the reference be decided in terms of the settlement. The settlement has duly been verified and signed by the parties representatives and by the workman too. The terms of settlement is :—

1. That the management of Bhagirath Gramin Bank agrees to provide permanent employment to Shri Harish Chandra Singh as Junior Clerk-Cum-Typist in the Bank w.e.f. 1-6-1989.

2. That Shri Harish Chandra Singh will report for duty at the Bank's Head Office within 10 days from the date of this settlement, where from the appointment letter along-with posting instructions will be issued by the Management.

3. That the workman concerned Shri Harish Chandra Singh voluntarily agrees to forego his claim for back wages, compensation and the benefits whatsoever of his past temporary services in the Bhagirath Gramin Bank and as such Shri Harish Chandra Singh will never claim the same in future.

4. That this fully and finally resolves the entire matter of dispute under reference.

Thus in view of the above settlement the reference is answered accordingly.

ARIAN DEV, Presiding Officer

[No. L-12012/9/88-D. I(B)/IR (Bank-I)]

का.जा. 3010:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रिय सरकार फेडरल बैंक लिमिटेड, कालीकट के प्रबन्धता के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुसूच में निम्नलिखित औद्योगिक विवाद में श्रम न्यायालय कलिकट के पंचपट को प्रकाशित करता है।

S.O. 3010.—In pursuance of section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Labour Court, Ernakulam as shown in the annexure, in the industrial dispute between the employers in relation to the management of Federal Bank Limited, Calicut and their workman.

IN THE LABOUR COURT, ERNAKULAM  
Wednesday, the 24th day of May, 1989

PRESENT :

Shri R. Raveendran, B.A., B.L., Presiding Officer.

Industrial Dispute No. 28/87 (C)

BETWEEN

The Chairman, The Federal Bank Limited, H.O. Alwaye, District Ernakulam, Kerala.

AND

Their workman Shri M. P. Sankarankutty, Mylakkattupoyil House, P.O. Kannankara, Via. Cherianoor, District Calicut, Kerala.

REPRESENTATIONS :

Shri B. S. Krishnan,  
Advocate, Cochin-16.

...For Management.

M/s. M. Asokan and K. Abdussalam,  
Advocates, Calicut.

...For Workman.

AWARD

The industrial dispute between the above parties was referred to this Court for adjudication by the Government of India, Ministry of Labour, New Delhi as per Order No. L-12012/28/86-D.IV(A) dated 17th March, 1987. The issue covered by the reference is as follows :—

“Whether the action of the Management of Federal Bank Ltd., in relation to its Calicut Branch, Kerala in terminating the services of Shri M. P. Sankarankutty, w.e.f. 10-5-84 is justified ? If not, to what relief is the workman concerned entitled ?”

2. The workman has filed a claim statement stating as follows :—

“The workman was employed as a Money Bee in the Calicut Branch of Federal Bank from 1976 onwards. He was appointed as a Money Bee by the then Area Manager. He was directed to collect amounts from the subscribers by way of door to door collection. Even though no appointment order was issued to the workman, he had been continuously working as a Money Bee in the Calicut Branch from 1976 January onwards till 10-5-84, on which date he was denied employment by the then Area Manager. As a Money Bee, the workman was directed to enrol individuals as subscribers to the door-to-door collection and the workman was required to fill up the necessary forms and to maintain documents and to sign in the necessary papers. The documents to be prepared and maintained were the Opening Cards, the Pass Books, the collection sheets etc. The amounts collected from the subscribers was to be paid in the Bank on the next day. Even though the workman was functioning as a regular employee of the Bank, the legitimate benefits to which the workman was legally entitled to, were not given to the workman by the Bank. On 10-5-84 as usual the workman went to the Bank alongwith the documents for remitting the previous day's collection and also for handing over the documents for making necessary entries in the documents kept in the Bank. The documents in the possession of the workman

was obtained by the Bank officials and the workman was informed that he need not resume work until getting further information from the Head Office. One Sri I. Appu was a Money Bee of the Bank. The Bank was keeping accounts in the name of Sri I. Appu and the documents were maintained in such a manner that Sri I. Appu was the principal money bee. Sri I. Appu died on 8-5-1984 and the Management has availed of the said opportunity to terminate the services of the workman by stating that the workman was only an assistant of Sri I. Appu. This claim of the Management is absolutely incorrect and is malafide. The contention of the Management that the workman was not a regular employee of the Bank is absolutely incorrect. The further contention that even if the workman is a Money Bee, he is not entitled to be considered as a workman is also absolutely incorrect. The workman was collecting very good amounts from the subscribers and remitting it to the Bank. The workman was given only commission for the said amount. The workman was getting on an average Rs. 1200 per month. At times, the workman was also directed to work as an Attender in case of urgent necessities. The termination of the service of the workman by the Management is illegal. The workman is entitled to be reinstated with back wages and continuity of service."

3. The Management has filed a counter statement contending as follows:—

"The reference is not maintainable in law and on facts. Sri Sankarankutty was never employed even as a Money Bee with the Calicut Branch of the Management Bank. There was also no employer-employee relationship between the Bank and Sri Sankarankutty at any point of time. Sri I. Appu was appointed as a Money Bee from 1-7-1970. The commission for the amount collected by Sri Appu was also paid to him directly. Sri Sankarankutty might have assisted Sri Appu in the daily collections. The Management Bank has never entered into any agreement with Sri Sankarankutty. The termination of service arises only where there is an employer-employee relationship. Sri Sankarankutty being not employed or engaged by the Bank in any capacity there was no question of directing him to enrol subscribers for deposit during collection. Sri Sankarankutty was engaged by Sri Appu to assist him occasionally. That will not give him the status even as a Money Bee of the Bank. If Sri Sankarankutty was Money Bee he would have submitted an application for the same and the Bank would have entered into an agreement with him and allowed him to collect money from the subscribers. There was no employer-employee relationship between Sri Sankarankutty and the Bank and in any view of the matter he cannot have the status of an agent of that of a Money Bee."

4. The workman has filed a rejoinder reiterating his claims and allegations in the claim statement and refuting the contentions raised by the Management in the counter statement.

5. For the Workman WW1 to WW3 were examined and Exts. W1 to W7 were marked. For the Management MW1 was examined and Exts. M1 to M10 were marked.

6. According to the workman, he was employed as a Money Bee in the Calicut Branch of Federal Bank from 1976 onwards and he was appointed as such by the then Area Manager and as a Money Bee he was directed to collect amounts from the subscribers by way of door to door collection. Even though no appointment order was issued to the workman he had been continuously working as a Money Bee from 1976 January onwards till 10-5-1984. He would further allege that he was doing the work of Money Bee by enrolling individuals as subscribers to door to door collections by filling up necessary forms and maintaining documents and signing in the necessary papers. He has to prepare and maintain documents such as Opening Cards, Pass Books, Collection Sheets etc. The amount collected from the subscribers was to be paid in the Bank on the next day and at the time of collection amounts daily from the subscribers the amount has to be entered in the Pass Book and signed by him. Even though he was working as a regular employee of the Bank, the legitimate benefits to which the workman was legally entitled to, were not given to the workman by the Management. On 10-5-84 as usual the workman went to the Bank along with the documents for remitting the

previous day's collection and also for handing over the documents for making necessary entries in the documents kept in the Bank. The documents in the possession of the workman was obtained by the Bank Officials and the workman was informed that he need not resume work until getting further information from the Head Office. He has also denied the fact that he was working as assistant of Sri I. Appu, the Money Bee of the Bank. He would further state that he was collecting very good amounts from the subscribers and remitting it to the Bank and he was given only the commission for the said amount. The workman was getting on an average an amount of Rs. 1200 per month. At times, the workman was directed to work as Attender in case of urgent necessities.

7. The contention of the Management is that the workman was never employed as a Money Bee in the Management Bank. There was no employer-employee relationship between the Management and Sri Sankarankutty at any point of time. He has never been appointed by the Area Manager as a Money Bee. One Sri Appu was appointed as a Money Bee from 1-7-1970. The commission for the amount collected by Sri Appu was paid to him directly. Sri Sankarankutty might have assisted Sri Appu in the daily collections and the Management Bank has never entered into an agreement with Sri Sankarankutty. As there was no employer-employee relationship between the Management and Sri Sankarankutty, the question of termination of service will not arise. He would further contend that if Sri Sankarankutty was a Money Bee he would have submitted an application for the same and the Bank would have entered into an agreement with him and allowed him to collect money from the subscribers. The workman cannot claim the status of Money Bee of the Bank and he is not entitled to claim any benefit in the capacity of an employee of the Bank.

8. It can be seen that the main dispute between the Management and the workman is regarding the status of the workman. According to the Management, Sri Sankarankutty was never appointed as Money Bee in the Bank and he has never worked as Money Bee as per the directions of the Bank, even though he might have assisted Sri Appu, the appointed Money Bee of the Bank. It is an admitted fact that Sri Appu died on 8-5-1984 and the dispute between the Management and workman arose on the death of Sri Appu. When the workman went to the Bank along with the documents for remitting the previous day's collection and also for handing over the documents for making necessary entries in the documents kept in the Bank, the documents in the possession of the workman was obtained by the Bank Officials and the workman was informed that he need not resume work until getting further information from the Head Office. The workman was examined as WW1 who would depose substantiating his allegations in the claim statement. He would further depose that he was working as Money Bee of the Bank from 1976 to 10-5-1984. WW2 is a person who is conducting a hotel in Calicut. He would depose that he opened a daily account in the Bank and the Manager told him that Sri Sankarankutty would be sent to him for collecting the amount and accordingly Sri Sankarankutty used to go to his shop and collect the amount. He would also swear that the Bank has issued a Pass Book. He would further depose that after receiving the amount Sri Sankarankutty entered the amount in the Pass Book and put his signature in the Pass Book. He would further depose that Sri Appu never came there to collect the amount and he never paid the amount to Sri Appu. He paid the amount only to Sri Sankarankutty. He would further depose in the cross-examination that he did not know who Sri Appu was. He would also depose that he has closed his account. WW3 would also swear that he opened an account at the request of Sri Sankarankutty and he received a Pass Book as is evidenced by Ext. W7. The amount was collected by Sri Sankarankutty from him. He would further depose that he did not know who Appu was.

9. The Regional Manager of the Management Bank was examined as MW1. He was the Branch Manager of the Calicut Branch from 1981 to 1985. He would depose that the Bank has a scheme of door to door collection. The persons who collected the amount under this Scheme are called Money Bees. The intended subscribers should fill up



the applications which were kept by the Money Bee and two respected persons should also sign in the application with their recommendations. Incidentally the Branch Manager will admit the application and send it to the Head Office with his recommendation. The Head Office will give a letter of engagement and an identity card. Money Bee has to make deposit as security. Money Bees are given commission on the basis of the collection made by them. There is no age limit for appointing a person as Money Bee and no prescribed qualification is also necessary for appointing a person as Money Bee. There is no selection process for appointing as Money Bee. The collected amount shall be remitted to the Bank. When Money Bee was laid up he used to entrust the work of collection to other person on his own responsibility. Shri Sankarankutty was assisting the Money Bee Shri Appu. Sankarankutty was never appointed as Money Bee by the Bank. He would depose in the cross-examination that Money Bee used to put their initials in the collection sheets and pass books and he has never seen the documents in which Shri Sankarankutty has put his signature as Money Bee.

10. Ext. W1 series are the door to door collection cards. It can be seen from these door to door collection cards that the workman has put his signature in the column provided for putting the signature of Money Bee. Ext. W2 series are the Pass Books issued to various subscribers. It can also be seen from Ext. W-2 series that Shri Sankarankutty has put his signature in the column which was provided for putting the signature of Money Bee. Ext. W3 is a letter dated 14-8-1980 from the Calicut Branch, I of L.I.C. of India to Shri Sankarankutty acknowledging the remittance of Rs. 38 made by Shri Sankarankutty. Ext. W4 is the accounts kept for the door to door collection. It can also be seen from Ext. W4 that the workman has put his signature in the column provided for putting the signature of Money Bee for the disputed period. Ext. W5 is an application for opening an account in the scheme of door to door collection. It can be seen from Ext. W5 also that the person who introduced is the workman in this case. Ext. W6 series are the cash credit receipts which would go to show that the collection was made by Shri Appu, the Money Bee. Ext. W7 is the Small Savings Account Pass Book of one M. Sivaraman. In Ext. W7 also the worker has put his signature in the column provided for putting the signature of Money Bee. Ext. M1 is the letter sent by Shri Sankarankutty to the General Manager of the Bank. Ext. M2 is the reply to Ext. M1. Ext. M3 is the another letter sent by Shri Sankarankutty to the Central Conciliation Officer. Ext. M4 is another representation made by Shri Sankarankutty to the General Manager alleging the denial of his employment. Ext. M5 is the letter sent by the workman to the Asstt. Labour Commissioner raising the industrial dispute. Ext. M6 is the application filed by Shri Appu for appointment as Small Savings Deposit Collector. Ext. M7 is the agreement executed by Shri Appu. Ext. M8 is the leave application submitted by Shri Appu to the Bank Manager. Ext. M9 series are the application forms of persons who enrolled themselves as subscribers of door to door collection deposit account. Ext. M10 series are the accounts kept for the door to door collection.

11. A perusal of Exts. W1 to W7 would go to show that Shri Sankarankutty was collecting money in the scheme of door to door collection of the Management Bank and the amount collected from the subscribers who were canvassed by the workman was received by the Bank and the Bank Officers made the entries in the accounts kept in the Bank. But admittedly there was no appointment order appointing Shri Sankarankutty as Money Bee. No agreement was also entered into between the Bank and Shri Sankarankutty as a Money Bee as was done in the case of Shri Appu as is evidenced by Ext. M7. So also Shri Sankarankutty had not presented any application for appointment as small savings deposit Collector as is done by Shri Appu as evidenced by Ext. M6. It can also be seen that Shri Appu has applied for leave whenever he found difficult to go and collect the amount. But no such application was made by the workman to the Manager for leave. It can also be seen from Ext. M1 letter sent by the workman to the General Manager that Shri Appu was working as Money Bee Prior to 1976 in the Bank and due to old age and sickness he was not in a position to continue as a Money Bee and Shri Appu informed him that there was a vacancy of Money Bee in the

Calicut Branch of the Federal Bank and advised him to give an application for the same. He would further state in the letter that when Shri Appu introduced him to the Manager of the Calicut Branch of the Bank he was asked to start working as a Money Bee and as there was difficulty in maintaining two separate accounts in the matter of door to door collection he was told that his account would be maintained along with that of Shri Appu and that his commission would be paid to him every month after deducting it from the account of Shri Appu. This statement in Ext. M1 would indicate that there was no independent account kept in the Bank in the name of the workman for the door to door collection and the account was maintained in the name of Shri Appu. It is further to be noted that Ext. M2 would prove the fact that the request of the workman to the appointed as Money Bee has been unheeded by the Manager, Staff Department of the Management Company. It can be seen that the Management Bank refused to appoint him as Money Bee inspite of his request. Even then he has collected the amount as Money Bee and remitted the amount to the Bank also. It can be seen that for the purpose of promoting the deposit of the Bank the scheme of door to door collection was introduced by the Bank. One Appu was appointed as Money Bee for the collection under this Scheme. He had applied for the post of Money Bee and he was appointed as Money Bee and after appointment he entered into an agreement with the Management. He has furnished security also. But in the case of this workman no security was also furnished.

12. The workman is defined in the Industrial Disputes Act as follows:—

"Workman means any person (including an apprentice) employed in any industry to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work for hire or reward, whether the terms of employment be express or implied . . . ."

From this definition it can be seen that in order to be a workman the following conditions are to be satisfied:—

- (a) He should be employed in an industry.
- (b) He should be employed to do any manual, unskilled, skilled, technical, operational, clerical or supervisory work.
- (c) He should be employed for hire or reward, and
- (d) There must be terms of employment. The terms can be express or implied.

A Money Bee is not employed to do manual, unskilled, skilled, technical, operational, clerical or supervisory work. Moreover there is no contract or employment either express or implied. Here the contract is that of agency and not that of employment. So also the "industrial dispute" means, any dispute or difference between employers and employees, or between employers and workmen, or between workmen and workmen, which is connected with the employment or non-employment or the terms of employment or with the conditions of labour or any person. So the subject matter of the dispute must be connected with the employment or non-employment or the terms of employment or with the conditions of labour. In this case there is no relationship of employer and workman between the Management and Money Bee. It can be seen from the testimony of WW1 that his job was canvassing business for the Bank. Canvassing of business is not a work in the nature of manual, unskilled, skilled, technical, operational, clerical or supervisory. In the cross-examination he would depose that in order to appoint a person as a Money Bee there is no prescribed academic qualification and anybody having knowledge in reading and writing and some accounting can be appointed as Money Bee. There is no prescribed age limit. There is no retirement age and there is no selection process. The Money Bee will get commission on the basis of the amount advanced by them.

13. The learned counsel for the Management would argue relying on the decision reported in 1961 II LLJ 94 that in order to be a workman under the Industrial Disputes Act he should attend to the works prescribed in . . . . If



the nature of duties is manual or clerical, then the person must be held to be a workman. On the other hand if manual or clerical work is only a small part of the duties of the person concerned and incidental to his main work it is not manual or clerical, then such a person would not be a workman. Where the duties of a person employed by a Pharmaceutical concern as a representative for canvassing orders consisted mainly of canvassing and any clerical or manual work that he had to do it incidental to his work of canvassing and could not take more than a small fraction of the time for which he had to work, therefore he would not be a workman. This principle of law was reaffirmed by the Supreme Court in 1970 11 LLJ 590. The learned counsel further argued relying on the decision reported in 1973 KLT 798 that the medical representatives are not workmen under the I.D. Act because the nature of work is not any of the works enlisted in the definition of workman. The learned counsel for the Management would further argue relying on the decision reported in 1981 KLT 413 and 1982 KLT Short Notes 28 and 1980 KLT 217 that the Appraisers engaged by the Bank on an agreement basis will not be workmen. Canvassing Agent of an Insurance Company signing cover notes and collecting money from customers is not a workman and the Money Bees are not workmen as there is no contract of employer-employee relationship.

14. The learned counsel for the workman would argue relying on the decision reported in AIR 1984 S.C. 1462 that the words 'any skilled or unskilled manual, supervisory, technical or clerical work' are not intended to limit or narrow the amplitude of the definition of 'workman' on the other hand they indicate and emphasise the broad sweep of the definition which is designed to cover all manner of persons employed in an industry, irrespective of whether they are engaged in skilled work or unskilled work, manual work, supervisory work, technical work or clerical work and obviously the broad intention is to take in the entire 'labour force' and exclude 'the managerial force'. That, of course, is as it should be. The learned counsel further argued that the Development Officers of the Life Insurance Corporation have been considered to be workmen as defined in the Act as they have no supervisory powers and they have no subordinate staff and their actions are controlled and regulated by the Life Insurance Corporation of India.

15. The learned counsel for the Management would argue relying on the decision reported in AIR 1988 S.C. 1700 that in order to be a workman a person should be one who satisfies the following conditions:—

- (i) He should be a person employed in an industry for hire or reward.
- (ii) He should be engaged in skilled or unskilled manual, supervisory, technical or clerical work, and
- (iii) He should not be a person falling under any of the exempted four clauses, i.e., 1 to 4 mentioned under the definition of workman in Sec. 2(s) of the Act.

The learned counsel further argued relying on the same decision that it is not possible to accept the suggestion that having regard to the object of the Act all employees in an industry except those falling under the four exceptions in Sec. 2(s) of the Act should be treated as workmen. The acceptance of this argument will render the words 'to do any skilled or unskilled manual, supervisory, technical or clerical work' meaningless. A liberal construction as suggested would have been possible only in the absence of these words. In view of this decision it has to be held that Money Bees are not workmen as defined in the Act as they do not do any skilled or unskilled, manual, supervisory, technical or clerical work and they are doing only canvassing the customers for making subscription towards the door to door collections and even if they are doing any clerical work that is only incidental to the main work "canvassing". In this case it is to be noted that Shri Sankarankutty was not appointed as workman and his request for appointment was refused by the Management. No agreement was also executed by Shri Sankarankutty in favour of the Bank for appointing him as Money Bee. No

security deposit was also made Shri Sankarankutty. So also no identity card was issued to him and no letter of engagement was also given to him by the Management Bank. No account was also maintained by the Banks for the door to door collection made by Shri Sankarankutty and the door to door collection made by Shri Sankarankutty was given credit to the account maintained in the name of Shri Appu. It is also pertinent to note that Shri Appu was an approved and appointed Money Bee of the Bank who died on 10-5-84 and the Bank Officials informed Shri Sankarankutty that he need not resume work until getting further information from the Head Office on 10-5-84 when the workmen went to the Bank along with the documents for remitting the previous day's collection and also for handing over the documents for making necessary entries in the documents kept in the Bank. These facts would suggest that Shri Sankarankutty was assisting Shri Appu to collect the door to door collection from the subscribers and he was not working as Money Bee independently. Therefore I hold that Shri Sankarankutty cannot claim to be the Money Bee of the Bank and even if he is a Money Bee he cannot be considered to be a workman as defined in the I.D. Act as I have already held. In these circumstances, on careful consideration of the entire evidence, other circumstances and the principles of law the action of the Management of Federal Bank Limited in relation to its Calicut Branch, Kerala, in terminating the services of Sri M. P. Sankarankutty with effect from 10-5-84 is justified as the appointed and authorised Money Bee Shri Appu died on 10-5-84 and Shri Sankarankutty was working only under Shri Appu in collecting the amount under the door to door collection scheme. Therefore I find that the workman Shri M. P. Sankarankutty is not entitled to any relief in this reference. An award is passed accordingly.

Ernakulam,

24-5-1989.

[No. L-12012/28/86-D.IV(A)/IR (Bank-I)]

R. RAVEENDRAN, Presiding Officer

#### APPENDIX

Witness examined on the Management's side :

MW1 Shri P. V. Thomas.

Witness examined on the Workman's side :

WW1 Shri Sankarankutty.

WW2 Shri Lok Nath.

WW3 Shri Sivaraman.

Exhibits marked on the Managements' side :

Ext. M1—A representation dated 30-5-1984 from Shri Sankarankutty to the Management.

Ext. M2—Copy of a letter dated 25-6-1984 from the Management to Shri M. P. Sankarankutty.

Ext. M3—A representation dated 4-10-1984 from Shri Sankarankutty to the Central Conciliation Officer, Ernakulam.

Ext. M4—Copy of a letter dated 8-11-1984 from the Management to the Asstt. Labour Commissioner (Central).

Ext. M5—A letter dated 18-8-1985 from Shri Sankarankutty to the Asstt. Labour Commissioner (Central), Ernakulam.

Ext. M6—Application of Shri T. Appu dated 1-9-1970 for appointment as Small Savings Deposit Collector.

Ext. M7—Agreement executed by Shri T. Appu on 5-9-1970.

Ext. M8—Leave application of Shri T. Appu dated 12-5-1983.

Ext. M9—Series: Application forms of persons who enrolled themselves as subscribers of door to door collection deposit account.

Ext. M10—series: Accounts of door to door collection deposit kept in the Management Bank.

Exhibits marked on the Workman's side:

Ext. W1—series. Door to door collection cards.

Ext. W2—series. Pass books issued to various subscribers.

Ext. W2(a)—First page of the pass book of Shri T. Lekanathan.

Ext. W3—A letter dated 14-8-1980 from the Calicut Branch I of L.I.C. of India to Shri Sankarankutty.

Ext. W4—Door to door collection sheet.

Ext. W5—An application for opening an account under the scheme of door to door collection.

Ext. W6—series: Cash Credit receipts.

Ext. W7—Small Savings Account Pass Book of Shri M. Svivaraman.

का.वा. 3011.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार औद्योगिक संरिखन बैंक लिमिटेड के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बंगलूर के संघर्ष को प्रकाशित करती है।

S.O. 3011.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the annexure, in the industrial dispute the employers in relation to the management of Catholic Syrian Bank Ltd. and their workman.

#### BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL CUM LABOUR COURT AT BANGALORE

Dated 28th February, 1989

PRESENT:

Shri B. N. Lalge, B.A. (Hons), LL.B. Presiding Officer.

Central Reference No. 40/88

#### I PART

Shri Lingusa D. Baddi,  
9, Corporation Building  
Broadway, Hubli-580020.

Vs.

#### II PARTY

The Chairman  
Catholic Syrian Bank Ltd.  
Head Office. "College View",  
St. Mary's College Road  
PB No. 502, Trichur-680020,  
Kerala.

APPEARANCES:

For the I party Shri M. Ram Rao, General Secretary  
D.D.B.E. Association, Hubli.

For the II party Shri Vijavakumar M. Bolmal, Asstt.  
Secretary Karnataka State Employer's Assn.,  
Bangalore.

#### AWARD

By exercising its powers under Section 10(1)(d) and (2A) of the I.D. Act, the Government of India, Ministry of Labour, has made the present reference on the following point of dispute by Order No. L-12012/31/88-D.IV(A) dated 8-8-1988.

#### POINT OF REFERENCE

"Whether the action of the management of Catholic Syrian Bank Ltd. in terminating Shri Lingusa D.

Baddi, Sub-staff of Durgabail, Hubli branch w.o.f. 30-9-1987 is justified? If not, to what relief the concerned workman is entitled to?"

2. The I party employee has filed his claim statement and inter alia, stated as follows.

The II party is a banking industry. It is in the private sector. It has a branch at Hubli. The II party is a member of the Indian Banks Association. The parties are bound by Bipartite Settlements. The I party employee joined the bank on 16-3-1987 as a sub-staff in a clear vacancy. Since then, he has served sincerely and honestly. He was in continuous service till 30-9-1987. In the first two weeks, he was paid Rs. 7 per day and was paid only for five days in a week. Then he was paid at the rate of Rs. 10 per day for five days in a week. He was not given and paid other benefits. His signatures were taken on debit vouchers. The II party was extracting work from 10 a.m. to 7.30 p.m. or 8.30 p.m. On 30-9-1987, the officials of the II party told him not to come for work and stated that one Shri Shaul of Trichur was appointed as a sub-staff. The said action of the management is in violation of the bipartite settlement. Termination of service without any notice or compensation, is illegal. He approached the II party for reinstatement but he was not reinstated. Hence, an award may be passed, directing the management to reinstate him with all the back wages and consequential benefits.

3. The II party management has filed its counter statement and the statements made therein, in brief, are as follows.

The II party is a banking institution, having branches all over India. Appointments are made by the Head Office, as per the rules and regulations. The appointment of any member of the sub-staff on permanent basis is done with due written test and interview. The process involved sometime. The branch managers are empowered to engage in case of leave vacancies or exigencies of work some person on daily wages, until the vacancy is filled up by a regular staff. Such engagement on daily wages is not a regular course of action. The candidates who work on daily wages have no lien. In March 1987, due to the suspension of a member of the sub-staff of the Durgabail branch there was some exigency. The I party was engaged on daily wages and he was paid as shown below.

31-3-1987—Rs. 50

16-4-1987—Rs. 50

24-4-1987—Rs. 50

28-4-1987—Rs. 50

29-5-1987—Rs. 50

6-6-1987—Rs. 50

29-9-1987—Rs. 50

In September 1987, the II party appointed one Shri Shaul Ahmed as sub-staff after interview and selection and he was posted to Hubli branch. There was no exigency of work and the I party employee was not engaged thereafter. The I party employee was below 18 years of age, when he was engaged and it shows that he was taken to meet the exigencies of service. The service motto of the bank will be disturbed if the bank is not allowed to engage persons on daily wages in case of exigencies. He had filed an application before the authority under the equal remuneration Act, Mangalore claiming the alleged dues and he has preferred an application for bonus also. It is denied that the relationship between them is governed by the Bipartite Awards. It is denied that he was engaged in a clear vacancy. The banking hours are from 10.30 a.m. to 5.30 p.m. It is not true that he used to work from 10.30 a.m. to 7.30 p.m. or 8.30 p.m. The question of issuing chargesheet, conducting an enquiry or issue of notice or payment of compensation do not arise, since there was no termination of service. There was no obligation to reinstate him. The other allegations made by him are denied. The reference may be rejected.

4. Thereafter, the management has examined two witnesses and has got marked Exs. M-1 to M-15.

5. The workman has examined himself and got marked Exs. W-1 to W-4.

6. Both the parties submitted that they want to file written arguments. Their written arguments have been received on record.

7. My finding on the point of reference is as follows.

The I party employee has not proved that he had attained the status of a temporary employee. The management has proved that he was engaged on daily wages to meet the exigencies of work and that there was no termination of his service. The employee is not entitled to any relief.

#### REASONS

8. The I party employee has been represented by Shri M. Ram Rao, an office bearer of the concerned Union. Shri V.M. Bolmal has filed his authorisation as an Asstt. Secretary of the Karnataka State Employers' Association, I.A. No. IV had been filed by the management under Section 36(2) of the I.D. Act, seeking permission. The parties were heard and a considered order has been passed in that connection on 10-12-1988. In continuation of the said order on 6-1-89, Shri V. M. Bolmal filed an authorisation signed by the II party. However, he had filed a xerox copy of the letter dated 29/30-12-1988. He was asked to file the original along with the written arguments dated 16-1-1989, he has filed the said letter. The question whether Shri V. M. Bolmal is entitled to represent the II party or not has been thus conducted and he has been permitted to represent the II party.

9. On going through the pleadings, it would be obvious that the chief bone of contention relates to the nature of engagement of the I party employee.

10. WW-1, the employee, Shri Lingusa D. Baddi has sworn that he was working in the II party from 16-3-87 to 30-9-87. There is no dispute on the point that he was working when MW-1 Sudrendra and MW-2 A. Mathew were officiating as managers of the said branch. In para 3 of his evidence, he however, states that these managers, had told him that he should go on working and that subsequently an order making him permanent would be issued. The I party employee has relied upon the letters written by the management to the A.L.C. Mangalore to show about the nature of his engagement. Ex. W-1 dated 2-3-1988 shows that in response to the copy of the representation sent by the workman to the A.L.C., the management had sent its reply to him and therein it contended that it was purely a temporary engagement for meeting temporary need and that since recruiting and posting of a regular sub-staff required sometime, the I party employee was engaged on daily wages to fulfil that need. It has been then contended that the said engagement was casual in nature and was not regular. The management has further stated that the need or necessity to engage any such person on daily wages ceased when a person regularly recruited was posted to the branch. Ex. W-2 dated 25-3-88 is another letter sent by the management to the A.L.C. and it has reference to the letter dt. 5-3-88 of the General Secretary of the Dharwar District Bank Employees' Association. It has been reiterated in Ex. W-2, that recruitment and appointment of regular employees to permanent posts is a time consuming process and in order to tide over the situation, a person is engaged on daily wages and he has to carry out day to day work. Reference has been made to Ex. W-3 dated 4-4-1988 report of the A.L.C. to the Secretary to the Government of India, Ministry of Labour. In the report, the A.L.C. has stated that during the conciliation proceedings, the management had contended that the employee was engaged on daily wages to meet the temporary requirements of sub-staff till the vacancy was filled up by a regular sub-staff. Ex. W-3 contains the views of the A.L.C. and the contents of the said letter do not operate as admissions of the II party. It is a case of the II party that in 1987, the sub-staff who was working in that branch had been suspended and in order to meet

the requirement of day to day work, the I party employee was engaged in para 7 of his evidence, MW-1 Sudrendra has sworn that in February or March one of the members of the staff was suspended and that therefore there was exigency of service and in that situation the I party employee was engaged. Neither Ex. W-1 nor Ex. W-2 show that MW-1 Sudrendra or MW-2A. Mathew had made any promise that he was appointed for a permanent vacant post and that they held out any promise that he would be made permanent subsequently. The learned counsel for the II party contended that as per the affidavit of the I party employee, Ex. W-4, he had not completed 18 years and that he was not at all eligible to be appointed as a sub-staff. It has been further contended that the evidence of MW-1 Sudrendra discloses that the I party employee had been engaged for casual work, since he learnt about him from his neighbour, the manager of the Corporation bank, when he was casually discussing with him about the problem of the staff of his bank. In para 8 of his evidence MW-1 Sudrendra has stated that he used to discuss about the staff problems with his neighbour, who was a manager of the Corporation bank and at that time his said neighbour told him that there was one boy who is a brother of a member of his sub-staff and that he can engage the said boy and the said boy was none else than the I party employee. In the cross-examination, the I party employee admits that his brother is working in the corporation bank, Hubli and that the residence of the Manager of the corporation bank was by the side of the residence of MW-1 Sudrendra. The fact that MW-1 Sudrendra had neither advertised for the said post nor did he intend to fill up the permanent vacancy has been established by the aforesaid evidence of MW-1 Sudrendra and the admissions made by WW-1, the employee.

11. In para 11 of his evidence, MW-1 Sudrendra has further stated that he had engaged the I party employee on three occasions and for five days each time. In regard to the payments made to him on all these five occasions vouchers have been produced at Exs. M-1 to M-3. It has been proved that the I party received his wages by putting his signatures at Exs. M-1 (a) and M-3(a). MW-1 Sudrendra has been confronted with a letter, Ex. M-4. A portion of the letter Ex. M-4 (a) has been got marked to show that the employee contended that he had been paid, but his signatures were obtained on vouchers and not in the pay roll. There is no suggestion made to either MW-1 or MW-2 that the I party employee was compelled to put his signatures on vouchers. The statement at Ex. M-4 (a) does not show that MW-1 or MW-2 or the II party bank indulged in any unfair labour practice in compelling the employee to do any act against his will. The evidence of MW-2 A. Mathew shows that he had engaged the I party employee on five occasions and the I party was paid his wages under vouchers Exs. M-6 to M-10. He has also stated that the I party received payment by putting his signatures at Exs. M-6 (a) to M-10 (a). These vouchers at Exs. M-1 to M-4 and M-6 to M-10 substantiate the evidence of MW-1 and MW-2 and show that the I party employee was engaged only as a daily wage.

12. Ex. M-11 dated 15-12-1987 is the representation given by the employee to the A.L.C. Mangalore. Therein, he has contended that he had been working in the II party branch from 16-3-1987 to 30-9-1987 and on 30-9-1987 his services have been terminated abruptly. He has requested the A.L.C. to intervene and help him for reinstatement etc. Ex. M-12 dated 12-4-88 is his claim statement filed under Section 7(1) (b) of the Equal Remuneration Act, 1976. In para 1 of the claim statement, Ex. M-12 (a), he contends that he was employed in the II party branch from 16-3-87 to 7-11-87. The I party employee has not made out any case that he worked up to 7-11-87 either in his pleading or in his own evidence. In para 1 of his evidence, he swears that he worked in the II party from 16-3-87 to 30-9-87. The contention raised by him in Ex. M-12 at Ex. M-12 (a) that he worked till 7-11-87 is not borne out by anything on record. Ex. M-13 is the statement of objections filed by the II party before the authority under the Equal Remuneration Act. The II party has contended in para 2 of Ex. M-13 that the I party employee was engaged intermittently but on certain days for day to day

work and it was only a casual employment to meet the temporary needs. Ex. M-14 is a letter by the Joint Secretary of the Dharwad District Bank Employees' Association of the II party. Therein, a demand has been made for the bonus payable to the I party employee for the year 1987. There is no statement made in Ex. M-14 that he was engaged against a permanent vacancy. Ex. M-15 dated 17-9-88 is a letter from the Manager of the I party to the Joint Secretary of the Association in response to Ex. M-14. The management has again reiterated its stand that he was engaged as a casual worker and he cannot claim any privileges or service benefits. The documentary evidence produced by the management, as discussed above, thus substantiates its case that the I party employee was engaged as a casual worker to meet the exigencies of service.

13. The learned counsel for the II party has contended in the written arguments that between the period from 31-3-87 and 29-9-87, the I party employee had been engaged on seven occasions and only for five days on each occasion, that he has put in only 35 days of service that he was engaged only on casual basis and he is not entitled to any relief. The learned counsel has placed reliance on the authority of *Karur Vysya Bank Employees Union Vs. CGIT, Bangalore* and another (1988 II L.L.N. Page 794). The authority is on the point that if the employee does not fall within the meaning of a temporary staff, as defined in the bipartite settlement of the Banking Industry and if he has not put in 240 days of service, the provisions of Section 25-F of the I.D. Act will not be attracted. It has been urged in the written arguments that in view of the aforesaid authority, it may be held that the I party employee is not entitled to any relief.

14. In the written arguments filed for the I party employee on pages 1 to 3 till the end of fifth para, the documentary evidence has been analysed. In para 6 of the written arguments, the case of the I party has been stated in paras 7 and 8 and it has been explained that the II party has its head office in Trichur and it has a branch at Hubli and that it is a member of the Indian Bank's Association. In paras 8 and 9, it has been submitted that the II party is bound by the bipartite settlements. Thereafter, reliance has been placed on two authorities shown as below.

(1) *Employers, United Commercial Bank Limited Vs. Their Workmen (Indus. Tribunal, Chandigarh) D.D. 28-8-65*. The facts of the reported case would show that the services of a temporary employee had been terminated with effect from 31-5-1962 and in the context of the facts and circumstances of the said case, it has been held that at least 14 days notice of termination should have been served on him. In the case at hand, it has not been established that he was appointed as a temporary employee or that he was working continuously and that it was obligatory on the part of the management to have served a notice of 14 days. In my view, the principle laid down is not attracted.

(2) Then reference has been made to the case of *Nand Kishore Sharma Vs. Union of India and others (1977 I L.J. Page 430)*. The facts of the reported case would show that originally the employee was appointed in the Ministry of Home Affairs on 31-12-1964 and five years later, he was taken over as a clerk in Palam Airport, but however, his services were terminated on 3-6-1970. It has been held that the management ought to have paid him notice salary and for not doing so, the action of the Management was discriminatory and was therefore not aside. The evidence of MW-1, MW-2 and the documents at Exs. M-1 to M-15 and the admissions made by the I party employee have established for the management that he had not attained the status of a temporary employee and his employment was only on a casual basis as a daily wage. The provisions of Section 25-F of the I.D. Act were not attracted. There was no obligation on the part of the management to issue any retrenchment notice or pay him any retrenchment compensation. The authority is of no assistance to him. In paras 10 and 11 of the written arguments, it has been contended that the I party employee has been appointed against a clear vacancy and therefore

the management was not justified in terminating his services. The learned representative for the I party has pointed out to the evidence of MW-1 and MW-2 and has stated that it is admitted by them that they had engaged the I party employee continuously from 16-3-87 to 30-9-87 and that he was performing the work of sub-staff and thus it is manifest that the termination of his service was contrary to the provisions of the Bipartite Settlement. There is no admission in the evidence of MW-1 and MW-2 to show that he had been appointed against a clear vacancy. Their evidence clearly shows that a member of the sub-staff had been kept under suspension and in order to meet the exigency day to day work, the I party employee had been engaged on casual basis and was paid daily wages. The conditions raised in Para 11 of the written arguments that there are admissions of the management is not borne out by record.

15. In para 12 of the written arguments, it has been contended that the management has acted with mala fides and that the I party has been victimised. The contention of the II party is that employees are recruited to the sub-staff cadre according to rules and after due test and interview. There cannot be two opinions that it is not a nationalised bank. The II party cannot afford to overlook the provisions of the Employment Exchanges (compulsory notification of vacancies) Act 1959 and such other labour legislation which call upon such institutions to recruit the employees only through the Employment Exchanges or by following prescribed rules. However, this Tribunal is not called upon to enter into discussion or record any finding whether the action of the management in recruiting one Shaul Ahmed and posting him to the II party branch is regular or not. No case of victimisation has been made out. In paras 13 and 14 of the written arguments, it has been contended that a person junior to the I party employee has been employed and the said action of the management is illegal. The facts on record do not establish that the I party employee was employed on regular basis, after test and interview, against a clear vacancy. In my view, the question of the Second Party employing a junior person does not arise.

16. In paras 15 and 16 of the written arguments, reference has been made to Clause 20.7, 20.6 and 20.12 of the Bipartite settlement. The said provisions would apply for a temporary employee. On facts, it has been held that he did not attain the status of a temporary employee and thus, it is obvious that the said provisions are not applicable.

17. In para 17 of the written arguments, it has been discussed as to how the banking management showed function in regard to the recruitment of sub-staff and provisions of para 493 of the Shastri Award have been reproduced. On facts, it has been held that there was no recruitment in the case of the I party employee. Since the I party employee was not a retrenched employee, I do not find that the II party was bound to prefer him while filling up the said vacancy. It cannot be forgotten that when the I party was engaged on casual basis, the post of the sub-staff in the Hubli branch had not fallen vacant. The situation then existing was that the member of the sub-staff had been kept under suspension. In order that the bank should function efficiently it was apt that the management had permitted the Branch Manager to make use of the services of a casual worker, to be paid on daily wages, only to tide over the situation. In my opinion, the provisions of Para 493 of Shastri Award are not attracted.

18. In para 18 of the written arguments, a reference has been made to the authority of *Shri Gaffar and others Vs. Union of India (1984 I.A.B. J.C. page 645)*. With reference to Section 25-G and Rule 77, it has been laid down that publication of seniority list of all workmen 7 days prior to retrenchment is mandatory. Reference has also been made to the case of *Swadesamitran, Ltd Vs. Their Workmen [1960 (1) L.J. page 504]*. The authority has laid down a principle that if the management does not abide by the principle of "last come, first go", the action cannot be sustained. It requires to be reiterated that no question of

retrenchment has been involved in the present case and the authorities are not pertinent.

19. In para 19 of the written arguments, reference has been made to para 536 of the Sastry Award and it has been contended that members of the subordinate staff cannot be transferred outside the state. The II party has a case that one Shaul Ahmed has been appointed in the II party branch, he having been selected by the Head Office at Trichur. The question of transfer from one state to another is not a point involved in the matter.

20. In para 20 of the written arguments, reference has been made to para 495 of the Sastry Award and it has been contended that since the I party employee had worked for more than six months, it should be deemed that he had been confirmed and the authority shown below has been pointed out in that connection.

Mohan Lal Vs. Bharat Electronics Limited (1981 II L.L.J. Page 70). The authority states that non-compliance of Section 25F makes the action of the management illegal. The case established by the management is that he was employed on five occasions and only for five days on each occasion and that his appointment was only of a casual nature. The contention of the I party that he was an employee of the II party and that the management had terminated his services in September 1987 has not been proved. The case at hand does not involve the question of retrenchment without notice or without payment of any compensation. In paras 21 to 25, reference has been made to paras 496, 512, 516 and 495 of Sastry Award. The said provisions relate to the emoluments of the probationers, maintenance of attendance registers, service books, issue of appointment orders and payment of legitimate emoluments. It is neither a case of a probationer nor a case of a temporary employee and in my opinion the said provisions are not attracted in the case of a person who had been engaged on casual basis.

21. In para 26 of the written arguments, reference has been made to Clause 13.22 of the first Bipartite settlement. The provision relates to privileges and benefits. Since the I party was neither a temporary employee nor a probationer nor a permanent employee, the said provision has no bearing.

22. In para 27 of the written arguments, it has been contended that all the debit vouchers for the said period have not been produced, that many of them have been suppressed purposely and that the II party had adopted illegal procedure. The evidence of MW-1 and MW-2 shows that since the I party was not a regular employee, he was paid wages under vouchers and the amount was debited as general expenses. The question involved is whether the workman had attained the status of a temporary employee and not whether the accounting system of the II party is not correct in as much as the wages paid to a casual employee had been debited as general expenses. Irrespective of the nomenclature used by the bank for showing the debit entry, it is admitted that the I party was paid wages and that only relevant question is whether he had become a temporary employee of the II party and on that point there is a negative findings.

23. In para 28 of the written arguments, it has been contended that the management has extracted work from him for extra hours and has caused loss to him. Even supposing that there is truth in the said contention, there is no reference on that point and the point raised does not call for any finding.

24. In paragraphs 29, 30 and 31 of the written arguments, it has been contended that the II party has indulged in unfair labour practice, as shown in Schedule 5 of the Act. Since the I party was employed on casual basis, I do not find that the II party had indulged in any unfair labour practice, as urged therein.

25. In para 32 of the written arguments, it has been contended that without written orders and without 14 days notice, his services has been terminated and thus the II party is guilty of violation of the provisions of the Bipartite Settlement. The case of the management is that he was engaged on casual basis and soon after the regular incumbent was appointed, the II party did not again engage the I party employee. There is no question of termination of service. The learned representative for the I party has referred to the following cases :—

- (1) National Iron and Steel Company, Ltd., & Ors. Vs. State of West Bengal and another (1967 II LLJ Page 23).
- (2) Hari Mohan Rastogi Vs. Labour Court and another (1984 I LLJ . 32).
- (3) Management of New Taj Mahal Cafe (P) Ltd. Vs. Workmen of New Taj Mahal Cafe (P) Ltd. and another [1966 (13) I.L.R. page 151].
- (4) British India Corporation Vs. Labour Court and others (1978 IAB IC page 523), and
- (5) Indian Metal and Metallurgical Corporation Vs. Their Workmen (1953 L. R. Tribunal, page 224).

These authorities which deal with various provisions of Chapter VA and VB of the I.D. Act have no bearing, since no question of retrenchment is involved.

26. In the written arguments, in para 33, it has been contended that the order of discharge shall have to be in writing, but since there is no written order, the termination of the service of the I party employee is illegal. It is reiterated that it is not a case of termination of a service, but it is a case where a person who had been engaged on casual basis has not been engaged subsequently.

27. In paras 34 and 35 of the written arguments, it has been contended that the employee is entitled to allowances and a service certificate, but the said provisions have not been complied with. In para 36 of the written arguments, it has been stated that the termination of service without payment or retrenchment compensation is legal. In para 37, it is pointed out that the provisions of Section 25F and 25N have not been complied with. In my view, all these contentions have no bearing, as regards the point involved in the present case.

28. In para 38, it has been stated that the workman has been victimised. No motive has been suggested to either MW-1, MW-2 or to the management as such. In my opinion, the question of victimisation does not arise at all.

29. In para 39, it has been urged that he should have been paid gratuity. This Tribunal is not called upon to record any finding on the point of payment of gratuity. The point raised is not relevant.

30. In para 42 of the written arguments, reference has been made to the following authorities :—

- (1) Workmen of M/s. Williamson Magor & Co. Ltd. Vs. M/s. Williamson Magor and Co. Ltd. (AIR 1982 Supreme Court page 78).
- (2) Sant Raj & Ors. Vs. O. P. Singla Unreported Judgements (S.C.) 1985, Page 1064.
- (3) Sukhdev Raj Vs. Union of India and Ors. [1987 Supreme Court Cases (L&S) Page 281].
- (4) Common India Limited Vs. Niranjan Dass [1984 Supreme Court Cases (L&S) (Page 144)].

All these authorities are on the point that if the court holds that the termination is illegal, the employee will be entitled to back wages. In paras 43, 44 and 45, it has been contended that the employee is further entitled to the interest and costs. In my opinion, it is not a case of retrenchment without following the various provisions of Chapter V, VA

or VB. The employee is not entitled to any back wages, compensation, interest or costs. In para 46 of the written arguments, it has been contended that the management had accepted his age and that now the management cannot turn round and contend that the contract is void. Whether he was engaged on casual basis, is not a point in dispute. The only point in dispute is whether the workman had been regularly appointed against a clear vacancy and whether his service has been terminated illegally and whether he is entitled to reinstatement and other benefits. On these points, there are negative findings.

31. In para 47, a point has been raised that he was entitled to equal remuneration. From the record, it appears that the I party employee has resorted to suitable action before the concerned authority. This Tribunal is not called upon to consider that demand.

32. In para 48, it has been contended that the management had not produced the advertisement made for the said post of sub-staff nor the documents regarding written test and interview and therefore, the appointment of Shaul Ahmed is illegal. As observed earlier, the only aspect that requires to be considered is whether there was termination of service of the I party employee and not whether the appointment of Shaul Ahmed is in accordance with law or otherwise.

33. In the rest of the contentions raised by the I party employee in the written arguments, it has been stated that his service has been terminated with ulterior motive and that he may be ordered to be reinstated with consequential benefits.

34. In my view the authority of Nagaraj Bhat cited for the II party management applies on all fours and that the I party employee is not entitled to any relief.

35. In the result, an award is passed to the effect that it is not a case where the management has terminated the service of Shri Lingusa D. Baddi, Sub-staff with effect from 30-9-1987, but that it is a case of non-engagement of casual worker subsequent to 30-9-87 and that the action of the management of Catholic Syrian Bank Ltd. was justified and that the I party employee is not entitled to any relief.

(Dictated to the Stenographer, taken down by her, got typed and corrected by me).

B. N. LALGE, Presiding Officer

[No. L-12012(31)/88-D.IV(A)]IR(Bank-I)]

क.आ. 3012:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय जीवन बीमा निगम के प्रबंधन के संबंध में नियोजकों और उनके कर्मचारों के बीच, अनुबंध से निहित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण बम्बई के पंचपट को प्रकाशित करती है।

S.O. 3012.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bombay as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Life Insurance Corporation of India and their workman.

#### ANNEXURE

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

Reference No. CGIT-2/6 of 1988

PRESENT:

Shri P. D. Apshankar, Presiding Officer.

#### PARTIES:

Employer in relation to the management of L.I.C. of India.

AND

Their workmen.

#### APPEARANCES:

For the employer—Shri P. M. Palshikar, Advocate.

For the workmen—Shri A. S. Deo, General Secretary, Western Zone Insurance Employees Association.

INDUSTRY : Insurance.

STATE : Maharashtra.

Bombay, dated the 1st August, 1989

#### AWARD

The Central Government by their Order No. L-17012/34/87-D.IV(A) dated 29-1-1988 have referred the following industrial dispute to this Tribunal for adjudication under Section 10(1)(d) of the Industrial Disputes Act :—

"Whether the action of the Life Insurance Corporation of India, Central Office, Bombay in removal from service of Shri M. B. Purabin, sweeper with effect from 26-6-1984 for his absence from duty as per chargesheet is legal and justified? If not, what relief the workman is entitled to?"

2. The case of the workman Shri M. B. Purabin, as disclosed from the statement of claim filed by the Union, in short, is thus :—

The workman Shri M. B. Purabin was appointed as a sweeper in the service of the L.I.C. in 1961. In January 1984 a chargesheet was issued against him alleging for his unauthorised absence on nine different occasions. The workman replied to that chargesheet. That reply was not found satisfactory by the competent authority and hence the workman was served with a show cause notice proposing to remove him from the service of the L.I.C. The workman replied to that show cause notice. However, the competent authority passed an order removing him from service of the L.I.C. on 26-6-1984. The workman alleged that out of nine occasions of his absence, on five occasions he was absent because of his sickness and certain occasions other persons in his family were sick, but every time he submitted the leave application and also produced the necessary medical certificates. As such the action of the management in removing him from service is not just and proper. Further, while holding the departmental enquiry against him the principles of natural justice were not duly followed. The Union prayed that the said action of the L.I.C. management in removing the said workman from service be held unjust, and illegal, and that the management of L.I.C. of India be directed to reinstate the workman in service with full back wages and continuity of service.

3. The Administrative Officer (Legal) of the L.I.C. of India (Zonal Office), Bombay, by his written statement (Ex. 3) opposed the said claim of the Union and in substance contended thus :—

The workman Shri M. B. Purabin was appointed as a cleaner in the service of the Corporation in January, 1963. Since the beginning of his service, his attendance recorded was absolutely unsatisfactory. For his unauthorised absence during the period of 22 years of his service with the L.I.C. on 36 occasions he was warned for his unauthorised absence, and on 11 occasions the chargesheets were issued against him for his continued unauthorised absence. Different penalties were imposed upon him from time to time for his unauthorised absence.

Though he remained absent from time to time, the L.I.C. treated his absence on certain occasions as his privilege leave and on certain occasions as sick leave etc. His absence for 374 days was treated as Extra Ordinary Leave and his absence for 455 days was treated as Dies Non. Therefore, as the workman again remained absent, he was chargesheeted by the L.I.C. for his absence. In the enquiry proceedings he had admitted the charges made against him and had prayed for mercy. In fact, no enquiry was necessary as the workman had admitted the allegations made against him by the management. Therefore, the action taken by the management in removing him from service is quite just and proper. The L.I.C. management therefore prayed for the dismissal of the claim of the Union.

4. On these pleadings the necessary issues were framed at Ex. 4. The workman filed his affidavit in support of his claim at Ex. 5.

5. While the case was at the stage of his cross-examination, both the parties arrived at an amicable settlement and filed terms of settlement at Ex. 6, which are thus:—

- “(a) The workman concerned will be reinstated in the service of Life Insurance Corporation of India within one month after the publication of this Award.
- (b) On reinstatement the workman concerned will be fixed at the minimum of the scale as may be applicable to him at the time of his reinstatement.
- (c) The workman concerned will be paid 50 percent of the monthly salary on ex-gratia basis from the date of his removal viz. 26-6-1984 till the date on which he resumes duty pursuant to the consent Award to be passed by the Hon'ble Tribunal.
- (d) The workman concerned will not be eligible to draw any other pecuniary and/or service benefits except the payment of 50 percent of his salary on ex-gratia basis referred to the clause (c) hereinabove.
- (e) The period from his date of removal till the date on which he resumes duty will be treated in its entirety as the period not spent on duty.
- (f) The workman concerned and/or Union representing the workman will not raise any dispute in future whatsoever about his removal from services or about the payment being made to him pursuant to and covered by this consent terms.”

5. I find that this settlement is quite in the interest of both the parties. As such I accept it. In the result the Award must be, and is drawn in terms of the said settlement.

The parties to bear their own costs of this Reference.

1-8-1989.

P. D. APSHANKAR, Presiding Officer  
[No. L-17012/34/87-D.IV(A)/IR(Bank-I)]

का.प्र. 3013:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार तृण भद्रा ग्रामीण बैंक, बेल्लारी के प्रबन्धन के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुव्यय में निश्चित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के पंचपट को प्रकाशित करती है।

S.O 3013.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the Annexure, in the industrial dispute between the employers in relation to the management of Tungabhadra Gramin Bank and their workmen.

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT BANGALORE

Dated 27th day of June 1989

PRESENT :

Shri B. N. Lalge, B.A. (Hons), LL.B., Presiding Officer.

Central Reference No. 3/88

I PARTY :

Shri Ishwar D. Audi No. 90 (Upstairs) Valmiki Street Bellary-583101.

Vs.

II PARTY :

The Chairman Tungabhadra Gramin Bank Head Office 32, Sangankal Road Bellary-583101.

APPEARANCES :

For the I Party Shri V. Gopala Gowda, Advocate.

For the II Party Shri P. S. Sawkar, Advocate.

AWARD

By exercising its powers under Section 10(1)(d) of the Industrial Disputes Act, 1947, the Government of India, Ministry of Labour has made the present reference on the following point of dispute by its Order No. L-12012/51/87-D.IV (A) dated 5-2-1988. The point of reference is as follows.

### POINT OF REFERENCE

“Whether the action of the management of Tungabhadra Gramin Bank, H.O. Bellary, in terminating the services of Shri Ishwar D. Audi, Probationary Field Supervisor with effect from 31-1-1987 during the period of extended probation is justified? If not, to what relief the workman is entitled?”

2. The I party workman has filed his claim statement and his contentions, in brief, are as follows.

He was recruited as a trainee field supervisor as per the proceedings of the Chairman dated 11-5-1983. After successful completion of the training period, he was appointed as a probationary field supervisor with effect from 26-6-1984, as per the proceedings of the Chairman dated 6-7-1984. The period of probation was fixed for two years. He is a workman as defined in Section 2(s) of the I. D. Act. In the proceedings No. TGB/18/EPF/NNR/15318 dated 6-7-1984, the duties and responsibilities of the field supervisor have been shown. The II party is an industry, as per Section 2(j) of the I. D. Act. He has worked honestly, diligently and faithfully and to the best satisfaction of his superiors. By the proceedings dated 9-6-1986, the management extended the probationary period from 25-6-1986 to 9-4-1987. During that period also, he has worked honestly, diligently and faithfully. He was frequently transferred from place to place, such as, Oojain, Matnari, Maski, Chigateri, Kallukamba and Galag. There was no complaints or allegations against him. During the extended probationary period, his service has been terminated by a proceeding dated 17-1-87 and it is with effect from 30-1-1987. It is alleged that his work was unsatisfactory. On going through the order of termination, it would be very clear that it is based on certain acts of misconduct alleged against him. He submitted a representation for reinstatement. His request was not considered. He approached the Conciliation Officer. The II party adopted a hostile attitude. The conciliation failed. In the counter statement filed before the Conciliation Officer, they alleged that he did not show improvement in his work, that he was in the habit of remaining unauthorisedly absent, wherever he was posted, there were allegations of misconduct against him that his performance was not satisfactory and that the Branch Managers had informed him about such unsatisfactory performance. No chargesheet was issued against him nor any domestic enquiry was conducted. His service has been terminated as a measure of punishment. It is illegal. The action of the management is in violation of Articles 14, 16,



19 and 21 of the Constitution. It is also against the principles of natural justice and contrary to Section 2(oo) of the I. D. Act. The management has not complied with the provisions of Chapter VB of the I.D. Act. Hence, an award may be passed for reinstatement and all the consequential benefits.

3. In the counter statement filed by the II party it has been stated as follows.

The II party is a Rural Bank established as per the Regional Rural Banks Act, 1976. The sponsor bank is the Canara Bank. It has branches in the villages of Raichur and Bellary districts. The employees of the bank are governed by Tungabhadra Gramin Bank (Staff) Service Regulations, 1980. Initially the I party was taken as a trainee field supervisor on the terms and conditions, as shown in the proceedings dated 11-5-1983. He accepted the said terms and conditions and joined as a trainee. As per the said proceedings, he was appointed as a trainee for an initial period of six months and it was liable to be extended, if found necessary. The II party had reserved the right to discontinue his training without assigning any reason. During the period of training, his performance was not satisfactory. The Branch Manager of Uojain had given a number of reports in regard to his work. His shortcomings were brought to his notice and he was advised to improve. In order to motivate him and give him experience, he was posted to different branches and sent to work under different working conditions. He was given opportunity to get himself trained in different branches. However, his performance during the period of training was not satisfactory. For that reason, the period of training was extended for three months with effect from 25-11-83. Still then, he did not show any improvement nor did he show any inclination to learn work. However, on humanitarian considerations, it was hoped that he may improve during the period of probation and hence he was appointed as a probationary supervisory with effect from 26-6-84, as per the proceedings dated 6-7-84. He accepted the terms and conditions of the appointment as per the order dated 6-7-1984 and joined as a probationary field supervisor. In accordance with the said rules, the period of probation was of two years, unless extended as per the service regulations. If the performance was found to be not satisfactory, the II party had a right to extend the period of probation. As per clause 12 of the proceedings dated 6-7-84, if his performance was found to be not satisfactory during the period of probation or extended period of probation, the management had the right to terminate his services without assigning any reason by giving one month's notice or by tendering one month's salary in lieu thereof. His performance was found to be not satisfactory and on several occasions, the Branch Managers and other officers had advised him to correct himself and show improvement in his performance, but it was of no avail. During the period of probation, he remained absent and did not show any interest to learn work. He was very casual in his work. In order to give him one more opportunity, the period of probation was extended upto 9-4-87 by proceedings dated 9-6-86. In spite of several opportunities, he did not show any improvement. The II party therefore in accordance with the regulations and the terms of appointment terminated his service during the period of extended probation. The action of the management is bona fide. The termination did not attach any stigma. It is based on objective evaluation of his performance. The action of the management does not amount to retrenchment. The various allegations made by him are not correct. They are denied. His contention that he was a workman under section 2(s) of the I.D. Act is not tenable. As per the said regulations, he is an officer, designated as field supervisor. His duties and functions were of the supervisory nature. He was not a workman. The allegation that his termination is violative of Articles 14, 16, 19 and 21 is not tenable. Even otherwise, the II party has produced sufficient material to justify its action in not confirming him. The allegation that the action is violative of principles of natural justice or Section 2(oo) or Chapter VB is not correct. The employees of the II party bank are expected to be of higher integrity and honesty, since the bank deals with the public money. The performance of the I party has shaken the confidence of the II party reposed in him. He cannot claim reinstatement. The reference may be rejected.

4. In view of the said pleadings, following three additional issues have been framed.

- (1) Whether the I party proves that he (the said person) was a workman within the meaning of Section 2(s) of the I.D. Act?
- (2) Whether the termination of his service amounts to retrenchment in law for non-compliance of Section 25-F etc. ? and
- (3) Whether the II party proves that the termination of his service is in accordance with law, as pleaded in the counter statement ?

5. For the management, four witnesses have been examined and Exs. M-1 to M-76 have been got marked.

6. For the workman, the workman himself and the two witnesses have been examined and Exs. W-1 to W-19 have been got marked.

7. The parties have been heard.

8. My findings on the additional issues and the point of reference are as follows :

#### ISSUE NUMBER 1

Yes

#### ISSUE NUMBER 2

No

#### ISSUE NUMBER 3

Yes

#### POINT OF REFERENCE

The action of the management of Tungabhadra Gramineen Bank, H.O. Bellary in terminating the services of Shri Ishwar D. Audi, Probationary Field Supervisor, with effect from 31-1-1987 is justified. He is not entitled to any relief.

#### REASONS

##### ISSUE NO. 1

9. The I party employee, WW-1 Ishwar D. Audi has sworn that the post of the field supervisor is not an Officer's post. It has been, however, brought out in his cross-examination that as per Regulation 3(2), of Ex. M-12, a field supervisor is included in the definition of an Officer. He has also been cross-examined whether he is a member of the Tungabhadra Gramin Bank Officers' Association and whether the said association is a constituent of the Officers' Federation. In para 28 of his evidence MW-1 Shri Vijaya Rao, the Senior Manager of the Head Office states that field supervisor is an officer and that the nature of his duties is supervisory. However, he admits that he has to assess the creditworthiness of the parties i.e. borrowers. It is admitted by him that the Circular Ex. M-39 is the document showing the nature of duties of a field supervisor. The employee has produced a similar copy at Ex. W-2. From Ex. M-39 or Ex. W-2 it is obvious that the duties and responsibilities of a field supervisor are to visit farms and business premises and to assess the loan requirements of the parties, to do follow-up inspection and verify whether the land has been utilised to assess the intending borrowers to fill-up forms etc., to advise borrowers on technical matters, to report about his work, to do spot inspection, to submit monthly report to visit the branch at least once in a day, to do work connected with the field duties to identify prospective deposition etc. These duties cannot be called as of nature of the supervisory duties.

10. The learned counsel for the I party cited the case of S. K. Verma Vs. Mahesh Chandra and Another (1983) 4 SCC page 214. The authority states that appealation of the post is not material whereas the court shall have to look into the nature of the duties to find out whether the work is of a supervisory nature. In view of the principle laid down in the authority, in the context of the facts placed before me, I find that the fact that whether he is a member of



the Officer's association or not is not the criterion and that the nature of his duties, as shown in Ex. M-39 or W-2 shall have to be the criterion and that as the said documents, he was a workman within the meaning of the Section 2(s) of the I D. Act.

#### ADDITIONAL ISSUES NO. 2, 3 AND POINT OF REFERENCE

11. In the counter statement, it has been repeatedly stated that his work was not satisfactory, he was informed about it, he did not improve nor did he show any inclination to learn work and that he was not continued in service, for the reason that his work was not satisfactory during the period of probation. It has been further asserted that the termination of his services is without attaching any stigma and it was based on objective valuation of his performance and that it does not amount to retrenchment and that the provisions of Section 2(o) did not come into play, since the case came under the Clause 2(o)(bb) of the I.D. Act.

12. On the other hand, the I party employee has contended that he has worked delinquently, honestly and sincerely and that the termination of his services is illegal.

13. In order to substantiate his said contention, the learned counsel for the I party cited the case of the Management of the Express Newspapers (Private) Ltd., Madurai Vs. The Presiding Officer, Labour Court, Madurai (AIR 1964 Supreme Court page 806). From the facts of the reported case, it is to be seen that even after the period of probation of six months, the employee had been continued in the service without any specific order and in that context, it has been held that the employee continued as a probationer even after six months. In the case at hand, it has been shown that after the initial period of probation, a specific order has been passed extending the period of his probation. From Regulation 8(1) of Ex. M-12, it is obvious that every officer on his appointment to a post in the bank shall be on probation for a period of two years and that it shall be extendable up to a period of not extending one year. Since the facts of the present case are different, it cannot be said that the I party employee had gained any permanent status or that his services have been terminated after the period of probation. In my view the principle laid down in the authority is, therefore, of no assistance to the I party employee.

14. The learned counsel for the I party has then cited the case of Gurdial Singh Vs. State of Punjab (AIR 1979 Supreme Court page 1622). The principle laid down in the authority is that an adverse report in a confidential record cannot be acted upon to deny promotional opportunities unless it was communicated to the person concerned and an opportunity was given him to improve his work and conduct or to explain the circumstances leading to such a report. In the present case, the II party has contended that the I party employee had been advised in the matter and the compliance or grievances raised against him by the customers of the bank or the shortcomings in his work found by the officers have been communicated to him. It was argued for the II party that this is not a case wherein any adverse confidential report had been taken into account, without his being given an opportunity of improving himself. The evidence in that connection is still to be discussed.

15. The case of Rasiklal Vaghajibhai Patel Vs. Ahmedabad Municipal Corporation and Another (1985) 2 Supreme Court Cases page 35) was cited to substantiate the contention that unless an act is shown as a misconduct in the standing orders or Service Regulations, the management cannot proceed against an employee alleging that he has committed an act of misconduct.

16. The learned counsel for the II party, in reply contended that it is not a case of punishment imposed upon an employee for any act of misconduct, but it is a case of unsatisfactory work during the period of probation. Since the facts of the case differ, I am of the view that the authority is of no avail to the I party.

17. The learned counsel for the I party cited the case of Harpar Singh Vs. State of U.P. (1988 I L.L.J. page 329). The principle laid down in the authority is that the court

has power to peer below the order of termination to find out foundation of such an order. It is also stated that if any stigma is case on the employee, he is entitled to defend himself in proceedings under the rules. It is reiterated that the case of the management is that his work was found to be unsatisfactory during the period of probation and that no stigma was attached.

18. The learned counsel for the I party referred to the case of Ishwar Chand Jain Vs. High Court of Punjab and Haryana and Another (1988) 3 Supreme Court Cases Page 370). The rule enunciated in the authority is that if the contention is of unsatisfactory work and conduct, conclusion must be based on existent and relevant material and that it shall be subject to judicial review. In the context of the facts of the reported case, it was held that the conclusions were based on non-existent and irrelevant material. The facts of the present case would be gone through and then a finding would be recorded in that connection.

19. The learned counsel for the II party mainly relied upon the case of the Management of City of Bangalore Municipal Corporation Employees' Co-operative Society Ltd. Vs. E. V. Raju (1986 I.L.R. (Kar.) page 2372). The Hon'ble High Court of Karnataka has laid down in the said authority that protection in law is not for misconduct but it is against unlawful termination and that dismissal in Common Law with a monthly notice or a month's wages was possible but dismissal under the Industrial Disputes Act entails reinstatement and payment of back wages, in case the dismissal is found to be improper and that every termination need not be preceded by a domestic enquiry. It has been further stated that in adjudication of a dispute being raised, the initial question would be whether there was good reason for dismissal and the next question would be whether proper procedure has been followed and that failure to hold domestic enquiry or failure to mention specific charges of misconduct would not take away jurisdiction of the labour court to consider the evidence placed before it. The pleading of the II party makes out a case of unsatisfactory work and in order to substantiate the said plea, evidence has been produced to show that he used to remain absent unauthorisedly, he used to borrow from the borrowers of the bank and arrive at a conclusion that this work was not satisfactory of the bank was not befitting a field supervisor and that the work he performed was far from being satisfactory.

20. The learned counsel for the II party cited the case of Union of India and others Vs. R. S. Dhaba (1969 (3) Supreme Court Cases page 603) and contended that the test for attracting article 311(2) of the Constitution is whether the misconduct or negligence is a mere motive for the order of termination of service or whether it is the very foundation of order of termination of service. It was further argued that in the case at hand his conduct as regards his dealings with the customers of the bank or as regards the general worker as regards his attendance form only the motive to arrive at a conclusion that his work was not satisfactory during the period of probation.

21. Reliance was also placed on the authority of Suresh Chand Vs. Principal, Government Girls Degree College, M.P. Khandwa and another (1972 II L.L.J. page 363). The authority states that if the termination is merely motivated by the misconduct and is not the foundation of the order, it cannot be said that the termination is unsustainable.

22. The case of State of Uttar Pradesh Vs. Bhoop Singh Verma (1979 2 Supreme Court Cases page 111) was also brought to my notice to support the contention that if there is only an order of simple discharge based on unsuitability for retention in service, it is not essential that there should be a departmental enquiry.

23. The learned counsel for the II party further placed reliance on the case of C.M. Jitendra Kumar Vs. The Management of Bharat Earth Movers Ltd. (1985 LAB I.C. page 1833). The authority is with reference to Sections 2(o)(bb) and 25-F of the I. D. Act and it is laid down that if a service clause enables an employer to terminate the services of a probationer for unsatisfactory performance, it cannot

be said that it is a case of retrenchment, attracting Section 25-F of the Act.

24. The learned counsel for the I party further cited the case of Shankariah Vs. K.S.R.T.C. (1986)(2) LLJ page 195. The authority is on the same point and it is stated that termination of a badli conductor on the ground of unsuitability as per the terms of the appointment does not amount to retrenchment.

25. In the light of the principles laid down in the afore-said authorities, the facts of the case require to be scrutinised and examined, to find out whether the management was justified in arriving at a conclusion that his performance was not satisfactory during the period of probation.

26. MW-2 Basavaraj Gowda was the Oojain Branch Manager from 1982 to 1985. It is an admitted fact that the I party Shri Ishwar D. Audi was working under him in that branch as a trainee supervisor. There is no dispute on the point that the Branch Manager was the reporting authority regarding his performance. MW-2 has sworn that his performance was not satisfactory and that Exs. M-2 to M-5 and Exs. M-33 are some of the reports sent by him in that connection. He swears that the I party was not carrying the work assigned to him properly. In para 2, he adds that he had informed about the said shortcomings to him but the employee did not heed to his advice. Para 3 of his evidence discloses that for the said reasons, he had recommended the extension of his training period in his confidential report, Ex. M-15. The witness has denied the suggestion that the I party employee was doing satisfactory work when he was under training in that branch. No motive has been suggested to him as to why he should swear against the I party employee. The evidence of MW-2 has been satisfactorily substantiated by his reports made during the course of undisputed period of time.

27. MW-3 B. J. Kulkarni was the Branch Manager of Matmari between 1982 and 1985. The I party employee was working under him for some time. Para 2 of his evidence discloses that in regard to the performance of work by the I party, MW-3 has sent some reports and Ex. M-6 is one of them. There is no dispute on the point that the I party worked in that branch from September 1983 to February 1984. His evidence disclosed that because the performance of the I party was not satisfactory, he wrote to the Head Office that his training period may be extended. Ex. M-6, his report substantiates his evidence. There is nothing in his cross-examination to suggest any motive for him to depose against the I party employee. He has denied the suggestions that the performance and behaviour of the I party employee were satisfactory.

28. MW-4 Shri Achut Padiyar was the Branch Manager of Kallukumba branch and during his period, the I party employee worked in that branch for about 13 months, as a probationer. MW-4 has sworn that in regard to the performance of the I party employee, he has sent periodical reports such as, Ex. M-14, Ex. M-15, Ex. M-23, Ex. M-24, Ex. M-26, Ex. M-27, Ex. M-28, Ex. M-29, Ex. M-30, Ex. M-31, Ex. M-32 and Ex. M-51. In para 2, he swears that he used to hold staff meetings and at that time he had told the I party employee about his shortcomings and that he should improve. He further adds that the I party was not regular in his attendance and he used to leave the office without permission. He further swears that the I party was not exhibiting any responsibility, not keeping supervision on the work, used to borrow Rs. 5 or Rs. 10 from the borrowers of the bank and never used to return and that there were complaints in that connection. It further appears in his evidence that he was not showing any interest in the overall development of the bank and that the Branch Manager had told him that he should improve and should not do like that, but that the number of complaints against the employee increased. His evidence has been attacked on the point that he did not give copies of his reports to the I party employee. His evidence is specific on the point that he had requested and advised the I party in the monthly meetings and also on other occasions and in that context, it is obvious that

there was no obligation on him to give the copies of the reports to the employee. It cannot be forgotten that the reports of these branch managers have not been taken into account for issuing any memo or chargesheet against the I party but they have been taken into account for the assessment of his work during the period of training and probation. In para 7 of his evidence, MW-4 Padiyar explains that when he used to visit the villages the concerned persons used to contact him and tell him that the I party had borrowed amounts from them. His evidence, in para 10, is substantiated by the documents, such as Exs. M-27 and M-28. On the back side of Ex. M-28, he had mentioned the names of the persons who had complained against the employee. In para 14, MW-4 has sworn that in Ex. M-31, he has referred to some strangers and had reported to the Head Office that he had become a headache. Ex. M-32 also substantiates his evidence. Para 16 of his evidence discloses that when he had gone for visits, some people had reported to him as per Exs. M-43, M-44 and on the strength of those documents, he had written as per Ex. M-51. The evidence of Ex. MW-4 that there were complaints from the customers of the bank is supported by the very complaints, such as Exs. M-43, M-44 and M-48. The learned counsel for the I party contended that these complainants have not been examined and that these documents are not at all admissible and that they cannot prove that there were complaints against the I party employee. The evidence of MW-2, MW-3 and MW-4 is direct evidence in regard to the complaints received by them, and irrespective of the contents of the complaints, their evidence proves that there were complaints against the I party from the public in general. In regard to his attendance also MW-4 has sworn that he used to remain absent and his evidence has been supported by the record.

29. In order to refute the contention of the management that his performance was not satisfactory, the I party has examined himself and two witnesses. There is nothing strange, if the I party employee has asserted that he had been regular in attendance, that he did not borrow from anybody, that he was sincere and uptodate in the work and that the complaints or reports against him are not true. The evidence of the employee requires to be examined in the context of the documents which have come into existence at an undisputed point of time.

30. WW-2 Shri C. Vishwanath was the Branch Manager of Galag branch from November 1983 to June 1987. The I party employee was working in that branch in December 1986 and January 1987 for about a month and half. He has sworn that the performance of the I party was satisfactory. He adds that in that connection, he had sent a report on 31-12-1986. In para 10, he adds that during that period, there was no complaint from the borrowers or customers or any co-employee against the I party. In para 21 of his evidence, WW-2 admits that he was himself on leave from 12-1-87 to 12-2-87 when he was in Galag. He further admits that he came in contact with the I party only with effect from 3-12-1986 and that the I party had worked under him until he went on leave on 12-1-1987. It has been suggested to him that at no point of time, he had any occasion to send any report in regard to the work of the I party employee. Looking at the fact that WW-2 had come into contact with the I party only for a short period from 3-12-86 to 12-1-87, I find that his evidence cannot be the criteria to decide whether the work of the I party was satisfactory during the period of training and probation, as against the evidence of MW-1 to MW-4. In para 24 of his evidence, WW-2 concedes that the report which he is supposed to have sent on 31-12-86 was not the half yearly report. The bare statement of WW-2, as regards the period of about five weeks cannot be preferred to that of MW-2, MW-3 and MW-4.

31. WW-3 Shivakumar worked as the Branch Manager of Maski from May 1982 to July 1985. It is an admitted fact that from March 1984 to November 1984, the I party Ishwar D. Audi was working as a field supervisor in that branch. In para 3 of his evidence, WW-3 swears that he had sent a special report to the Head Office. His earlier evidence discloses that before the period of training is completed, the Head Office asks for the special report of a Branch Manager

and after that the employee is declared as probationary field officer. The examination-in-chief of WW-3 is on the point that his work was satisfactory, conduct and behaviour were good and that he had all the good qualities. From para 12 of his evidence, it is obvious that the I party was at Maski branch from 13-2-84 to 24-11-84 and that as per Ex. M-11, he was a probationary field supervisor with effect from 26th June, 1984. It is admitted by WW-3 that from 13-4-84 to 25-6-84, the I party was working as a trainee supervisor. It is conceded by WW-3 that he does not know about the performance of the I party as a probationary supervisor after he left the branch on 24-11-84. He also admits that he does not know about the performance of the I party, as a trainee supervisor prior to 14-2-1984. In para 15 of his evidence, he admits that he had sent the two reports, Ex. M-72 and Ex. M-73 and Ex. M-74 and that they are for the period of some months and Ex. M-72 discloses that the I party Audi had participated in the strike on 26-9-86. Ex. M-73 is the report for July 1984. The remarks made by WW-3 Shivakumar N. Kowthar in Ex. M-73 are as follows:

Work	...Average
Conduct	...Good
Progress	...Average
Handwriting	...Legible
Any other Remarks	...Follow-up is not satisfactory and performance under recovery is not upto the mark.

Ex. M-74 is for the period from 13-2-84 to 28-2-84. The remarks made by WW-3, in Ex. M-74 are as follows:

Work	Average
Conduct	Good
Progress	Average
Handwriting	Legible
Any other Remarks	He has to cultivate reading circulars and he has to take initiation to learn internal work.

Exs. M-72 and M-73 do not substantiate the evidence of WW-3 that his work was satisfactory. In para 19, WW-3 states that he does not know whether the I party was not regular in attendance and whether he was on loss-of-pay for several days. In para 20, he admits that when he was in Sirvar branch, the Head Office had sent two complaints to him and had requested him to give his comments and he has been confronted with the two letters, Exs. M-75 and M-76. By Exs. M-75 and M-76, the management had called for the information from WW-3. It is an admitted fact that in response to the said letters, WW-3 Shivakumar had sent his letter, Ex. M-25. In Ex. M-25, WW-3 has stated that after he was relieved from Maski branch, he came to know by the members of the staff of the Maski branch and also by some people of Maski village that Shri Ishwar D. Audi probationary field supervisor had borrowed some money from some persons of Maski village and he had gone away to Chigateri without paying the same. His evidence has been recorded on 27-2-1989. His two reports at Exs. M-73 and M-74 are of March 1984 and August 1984. His said letter Ex. M-25 is dated 4-12-85. The oral testimony of WW-3 does not stand to scrutiny, since it is not in conformity with Exs. M-73, M-74 and Ex. M-25. The evidence of WW-3 thus does not prove that his work was satisfactory during the period of training or probation. MW-1 Vijaya Rao was the Senior Manager working in the Head Office of the II party. His evidence shows that the I party accepted the terms and conditions of the initial appointment as per Ex. M-1. Clause 3 of Ex. M-1 shows that only after completion of his training, his case for probationary field supervisor would be taken up for consideration. Clause 5 shows that the period of training was initially of 6 months and was extendable till such time, as found to be necessary. Ex. M-1(b) is the signature of the I party and it shows that he did accept the terms and conditions of Ex. M-1. The evidence of MW-1 is substantiated by that of M-2 and the reports at Exs. M-2 to

M-6 to show that even during the training period, his work was not satisfactory. Ex. M-7 is a letter sent by the management to the I party and it calls upon him to show improvement in his work. In view of Ex. M-7, it cannot be said that the I party was not given an opportunity to know about the shortcomings and to correct himself, para 11 of the evidence of MW-1 indicates that his training period was extended as per Ex. M-8. Ex. M-8 reads that his performance was not found to come upto their expectation and therefore his period of training was extended by 3 months with effect from 25-11-83. Since it is an admitted fact, even in the claim statement that his training period was extended for three months with effect from 25-11-83, I find that there is all the force in the contention of the II party that Ex. M-7 had been served on the I party employee and that the latter cannot be believed in his statement that he had not received any letter such as Ex. M-7. WW-1, the employee states that he had not received Ex. M-8, by which the period of training has been extended for 3 months. Ex. M-9 is the letter dated 4-2-84 by which his period of training was further extended for three months with effect from 25-2-84. Though WW-1 the employee has not admitted to have received Exs. M-8 and M-9, it is an admitted fact that his period of training was extended twice for three months. Since there is no convincing explanation as to how he came to know about the extension of his period of training, in the absence of any writing received by him, it emerges that his version cannot be accepted. The evidence of MW-1 Vijaya Rao then discloses that since there was no improvement in spite of extension of the training period, the management wrote to him the letter dated 15-2-84, Ex. M-10. He has further stated that on humanitarian grounds they thought it fit to give him further opportunity and therefore he was appointed as the probationary field supervisor. The fact that the I party accepted the terms and conditions of the said appointment, as per Ex. M-11, is obvious from his undertaking at Ex. M-11(a). Ex. M-11 shows that in Clause 10 that his probation was of two years with effect from 26-6-84 unless extended as per the regulations. Clause 12 indicates that if it was found that his work was not satisfactory, the bank may extend the probation in accordance with the regulations. Clause 12 makes it clear that the bank had the right to terminate his services during the probationary period including the period of extension of probation without assigning any reasons with one month's notice or with salary in lieu of notice. In para 47 of his evidence, the I party employee admits that he has signed at Ex. M-11(b) for having agreed to the terms and conditions of Ex. M-11. The evidence of MW-1 further discloses that the management had received several reports in connection with his work such as Exs. M-13, M-15 to M-21 and as regards his attendance he had remained absent for many days. The documents at Exs. M-13 to M-21 substantiate the evidence of MW-1. The learned counsel for the I party strongly contended that the I party had never received any such letters and that the management had failed to produce any acknowledgement showing that such letters had been handed over to him and that the management has put forth fabricated documents. The sequence of events themselves indicate that the said contention is not sustainable.

32. It appears in the evidence of MW-1 Vijaya Rao that taking a humanitarian view and in the hope that he may improve and show good results, the management had appointed him as a probationary supervisor, but that the I party employee belied the expectations. The fact that after the letters at Exs. M-16 to M-21 were sent to him, he remained absent, is borne out by the record produced by the workman himself. Ex. M-16 dt. 10-9-85 discloses that during the period from 4-6-1983 and 10-6-1985, he had remained absent on 19 occasions and was not available for work on 99 days and that he had flouted the leave rules. Ex. M-17 dated 10-9-85 relates to his unbecoming activities. Ex. M-18 dated 27-7-1985 deals with the subject of his absenteeism and unsatisfactory work. Ex. M-19 dated 12-8-85 deals with his absenteeism and lack of rapport between himself and the customers of the bank. Ex. M-20 dated 28-9-85 shows that he was indulging in undesirable activities and that his work was not satisfactory and he was asked to improve himself. Among the documents relied upon by the I party employee, there are proceedings of the Chairman at Exs. W-3 to W-12.

They show that from November 1984 to August 1985, he had unauthorisedly remained absent and that the management was considerate in treating the absence as various kinds of leave. The learned counsel for the I party contended that since leave has been granted by the management, the management cannot contend that he had remained unauthorisedly absent. It is difficult to appreciate the said contention. I do not find that any employer can be satisfied with the performance of his employee, if the employee, without prior notice, absents himself on 19 occasions in a span of two years and does not avail himself for the work of the employer on 99 days. Since the acknowledgement of the documents at Exs. W-3 to W-12 is an admitted fact, it further follows that there is no force in the contention of the I party that he used to receive documents only under acknowledgements.

33. Ex. M-21 dated 31-1-1986 shows that the I party employee had again remained absent unauthorisedly from 30-8-85. Ex. M-22 dated 9-6-86 shows that during the period of probation itself he had remained absent for 288 days and therefore his period of probation, which was to be completed on 25-6-86 could not be completed. The confidential report at Ex. M-23 dated 29-11-86 by the branch Manager of Kallukamba makes it clear that his work was unsatisfactory in all respects. Ex. M-24 is another report of the said Manager dated 2-11-86. It shows that in spite of several D.O. letters to him, he had not improved, that he had been remaining absent without prior notice, that his work was unsatisfactory, that his relations with the customers was far from satisfactory and that he indulged in activities, unbecoming of a bank employee. The reports at Exs. M-25 to M-29 speak volumes about his work and conduct. It is important to take note of the fact that the reports are from different officers of different branches.

34. The evidence of MW-1 Vijaya Rao then discloses that in order to provide further opportunity, his probationary period was extended, but he did not show any improvement. His said evidence has been supported by the reports at Exs. M-22 to M-33. In para 25 of his evidence, he adds that then the management advised him by letters, such as Ex. M-34 and Ex. M-35, but he did not improve himself. The leave record at Exs. M-36 and M-37 substantiates the evidence of MW-1 that during the period of two years and three months, he had remained unauthorisedly absent for 355 days. It is inconceivable as how one can assert that his work was not unsatisfactory, if he was not available for the employer for about half of the period that he was in the service of the employer. The evidence of MW-1 shows that since the management had no alternative, the order of termination was passed, as per Ex. M-38, by giving him one month's salary.

35. The documents at Exs. M-40 to M-48 are the complaints received against him by the various branches. Ex. M-49 is the reply given by him. From Ex. M-5, it is obvious that he had received two letters of the management dated 23-6-86 and one letter of 18-8-86. In Ex. M-49, he admits that without understanding the implications, he had entered into money transactions with his close friends during the period of training and probation and that soon after his transfer from the concerned place, he had paid off the said loans. In Ex. M-49, he makes a reference to the various letters of the management and concedes that he was not finding proper solution as to how he should meet such various letters. Finally, he has submitted that the management may pardon him. In para 78 of his evidence, the I party employee concedes that the contents of Ex. M-49 are correct. The evidence of MW-1 Vijaya Rao and Ex. M-50 shows that the bank had advised him that he shall not indulge in borrowing from the customers of the bank. The I party employee has denied that he had received any such letter. I do not find that there is any force in his contention that he had not received it. Ex. M-51 is a letter from the Manager of Kallukamba to the head office. Ex. M-51 substantiates the fact that the original of Ex. M-50 was served on the I party. The proceedings at Exs. M-52 to M-56 deal with the absenteeism of the I party. Ex. M-57 is the transfer order. Ex. M-58 indicates that the management found that his performance was not good, that he was advised to improve, that he was requested not to go on leave frequently, and was further asked not to have financial commitments with

persons having transactions with the bank. The documents at Exs. M-59 to M-70 deal with the same subject of absenteeism of the employee and the advice given by the management. It appears that the management has however sanctioned the leave on "loss-of-pay", taking a considerate view of the matter.

36. Ex. W-13 produced by the employee is the proceedings of the Chairman dated 22-9-1986 and it states that his absence from 29-8-86 and 30-8-86 was treated as one with valid sanction and "loss-of-pay". Ex. W-14 is a letter showing that his absence on 26-9-86 was treated as unauthorised. Ex. W-15 dated 6-7-84 is a letter by the management that he should put in more efforts in the matter of recoveries. Ex. W-16 is the order of transfer from Maski to Chigateri. Ex. W-17 is the proceedings of the Chairman dated 9-6-86 and it is the same as Ex. M-22. Ex. W-18 is the order of transfer from Kallukamba to Galag. Ex. W-19 is the order of termination. Ex. W-10, the statement of objections filed by the management before the Conciliation Officer. Many of the documents produced by the workman such as Ex. W-3 to W-7 and W-17 are the same as Exs. M-52 to M-57. They do not help the employee, in showing that his performance was satisfactory, but that the management has not been just and reasonable.

37. The learned counsel for the I party contended that the fact that the management has held that his work was not satisfactory itself is a stigma on the career of the I party and therefore there should have been an enquiry. It has been already discussed with reference to the principles laid down in the aforesaid authorities that if the misconduct has been taken into account as a motive for passing of an order, it cannot be said that the order is stigmatic.

38. The learned counsel for the I party then contended that no show-cause notice was issued to him and no opportunity was given to him of being heard. The record, as analysed above shows that not only the branch managers told him orally, but the management had sent him letters that he should improve and that he should not indulge in unbecoming acts, but the employee himself did not avail of the said opportunities. Since it is a case of unsatisfactory completion of the probationary period, I do not find that there was any obligation on the part of the management to issue a show-cause notice as to why the management should not declare and put an end to his service on the ground that his work was not satisfactory during the period of probation.

39. The learned counsel for the I party contended that in Ex. W-2, absence is not shown to be a misconduct and therefore the management could not have held that his work was not satisfactory for that reason. It goes without saying that an employer expects his employee to attend to his work regularly and there need not be a specific clause as a term and condition of the agreement of employment that the employee should be regular in his attendance. I do not find any force in the said contention.

40. The learned counsel for the I party argued that the chairman who has passed the impugned order has not been examined and that the case of the I party has not been established. There is no rule of evidence that the person who has passed the impugned order should be examined. It is the discretion and choice of the I party as to which kind of evidence should be adduced before the court. The material question is whether the evidence produced by the management justifies its action. On that point I find that the I party has produced abundant evidence to show that he did not complete the period of probation satisfactorily.

41. The learned counsel for the I party argued that the customers of the bank who had given complaints have not been examined and it is not proved that the I party employee had borrowed from any borrower of the bank. In that connection, it has been discussed with special reference to Ex. M-49 that the employee has himself admitted about the borrowings and about his unbecoming acts and that the evidence produced by the management is convincing on the point

that the I party has indulged in acts unbecoming of a bank employee.

42. The learned counsel for the II party contended that the termination before the extended period of probation is illegal. The principle laid down in the authorities, as discussed above, justify the action of the management that it can terminate the services of an employee soon after he finds that he has not completed and it is not likely that he will complete the period of probation satisfactorily. The provisions of Section 2(oo) (bb) justify the said action of the management, since the I party employee has executed the agreements, such as, Exs. M-1 and M-11, and the action of the management cannot be said to be an act of retrenchment.

43. The learned counsel for the II party argued that the (Staff) Service Regulations, Ex. M-12 and the reply given by him, as per Ex. M-49, when read along with the evidence of the management establish that he did not complete the period of probation satisfactorily and that the management was justified in terminating his services. Specific grounds have been shown in Ex. M-38 for terminating his services and the evidence produced by the management justifies the said action.

44. On going through the evidence in between the lines, I find that the I party employee is not entitled to any relief.

45. In the result, an award is passed to the effect that the management of Tungbhadra Grameen Bank, H.O. Bellary, was justified in terminating the services of Shri Ishwar D. Audi, Probationary Field Supervisor with effect from 31-1-87 and that he is not entitled to any relief.

B. N. LALGE, Presiding Officer  
[No. L-12012/51/87-D.IV(A)/IR (Bank-I)]

का.जा. 3014:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में केन्द्रीय सरकार अमरीकन एक्सप्रेस बैंक लिमिटेड (ट्रैवल विविजन) कलकत्ता के प्रबन्धपत्र के संबंध नियोजकों और उनके कर्मचारों के बीच, अनुबन्ध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक प्रतिक्रिया, कलकत्ता के पंचपट को प्रकाशित करती है।

S.O. 3014.—In pursuance of section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Calcutta as shown in the annexure, in the management of American Express Bank Limited (Travel Division), Calcutta, and their workman.

CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL  
AT CALCUTTA

Reference No. 118 of 1988

#### PARTIES :

Employers in relation to the management of American Express Bank Ltd. (Travel Division), Calcutta.

AND

Their Workmen

#### PRESENT :

Mr. Justice Sukumar Chakravarty—Presiding Officer.

#### APPEARANCES :

On behalf of employers—Mr. P. K. Mukherjee, Advocate.

On behalf of Workmen—None.

STATE : West Bengal.

INDUSTRY : Banking

#### AWARD

By Order No. L-12012/57/86-D.IV(A) dated 21-8-87 the Government of India, Ministry of Labour referred the following dispute to this Tribunal for adjudication :

“Whether the action of the management of the American Express Bank Ltd. (Travel Division), 21 Old Court House Street, Calcutta in not allowing Shri Hardeo Singh, Messenger, to resume his duties w.e.f. 25-11-85 is fair and justified ? If not, to what relief the workman is entitled ?”

2. When the case is called out today, Mr. P. K. Mukherjee, Advocate appears for the management and files a Joint Petition of Compromise, duly signed by both parties. He prays for an Award in terms of the Joint Petition of Compromise. Considered the said Joint Petition of Compromise as well as the submission of Mr. Mukherjee. The terms of the Joint Petition of Compromise appear to be fair, reasonable and in the interest of the parties. I therefore, accept the same and pass an ‘Award’ in terms of the said Joint Petition of Compromise which do form part of this Award as Annexure ‘A’.

This is my Award.

Dated, Calcutta.

The 12th December, 1988.

SUKUMAR CHAKRAVARTY, Presiding Officer

[No. L-12012/57/86-D.IV(A)/IR(Bank-I)]

#### ANNEXURE ‘A’

BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL  
TRIBUNAL CALCUTTA

In the Matter of :

Reference No. 118/88

AND

In the Matter of :

Industrial Dispute

BETWEEN

American Express Bank Limited  
(Travel Related Service), Calcutta

AND

Their Workman represented by  
American Express Employees Union.

.....Petitioner

#### PETITION OF SETTLEMENT

The humble joint petition of the American Express Bank Limited (Travel Division), Calcutta (hereinafter referred to as the “Management” and the American Express Employees Union (hereinafter referred to as the “Union”) the petitioners herein, most respectfully—

SHEWETH:—

1. The above case is posted on December 9, 1988 for filing of petition of settlement of the dispute.

2. The fact of the case is briefly stated below :—The workman concerned, namely, Sri Hardeo Singh, was working in the capacity of Messenger in the Bank at its Travel Division at the material time and for the discharge of his official

duties he had to travel by public transport. Right from the inception of his service in this organisation in 1966 he had a deformed right leg and with this he could manage to perform his duties as messenger. On September 29, 1983 he met with an accident and fractured his right leg and was on leave from September 30, 1983 to May 16, 1984. Though not quite fit he was permitted to resume duties on the basis of the medical fitness certificate produced by him. From July 2, 1984 he proceeded on further medical leave to undergo physiotherapy of his injured leg. On October 27, 1984 he resumed duty, though not completely cured of his ailments. On April 27, 1985 he had a fall and again fractured his right leg and was under medical treatment. On November 23, 1985 when he reported for duty he was sent to Company's Doctor for medical examination who certified him to be unfit for carrying out his normal duties. He then extended his leave for undergoing further treatment. On December 1, 1985 the workman wanted to resume duty but as he was found to be incapable of performing the normal duties of his post, the management decided to have him examined by a panel of Doctors including a Presidency Surgeon to have expert opinion as to his physical fitness to carry out the duties of his post involving considerable outdoor activities, walking and using public transport. The said panel upon examination declared him to be unfit for such duties. In the meanwhile on or about December, 9, 1985 the Union raised an industrial dispute with the Assistant Labour Commissioner (C) alleging that the management disallowed the workman to resume his duty with effect from December 1, 1985. The dispute was seized in conciliation and proceedings were held before the Assistant Labour Commissioner (C) on April 30, 1986 and May 6, 1986. The conciliation proceedings ended in failure at tripartite level and on May 13, 1986 the Conciliation Officer & The Assistant Labour Commissioner (C) sent in his failure report to the appropriate government, namely, the Government of India, Ministry of Labour, New Delhi. While the instant dispute was pending, the workman, Sri Hardeo Singh, vide his letter dated October 22, 1986, tendered resignation from his services with a request to the management to pay him an additional sum of Rs. 70,000 on an exgratia basis keeping in view his long services with American Express, besides his due Provident Fund and Gratuity. By its letter dated October 22, 1986 the Management accepted his resignation while acceding to his request for exgratia payment of Rs. 70,000 and in fact paid to the workman Rs. 70,000 besides his P. F. balance and due gratuity on his leaving the job. Thereupon a joint letter signed on behalf of both the management and the Union was addressed to the Assistant Labour Commissioner (C) confirming that the instant dispute was settled to the satisfaction of all the concerned parties and as such no industrial dispute did exist or survive in relation to any claims or otherwise made by the workman with reference to his employment in American Express. Xerox copies of the said letters dated 22-10-1986 respectively of the workman and the management and that of the joint letter dated 23-10-1986 are annexed hereto and respectively marked "A", "B" and "C".

3. On August 29, 1987 the management received a copy of the instant order of reference dated August 2, 1987 from the Government of India, Ministry of Labour, referring the case to this Tribunal.

4. In view of the circumstances stated above there was no dispute existing on the date of the instant reference, that is, on 2-8-1987 and the alleged dispute on which the reference was based was honest on the date of its issue.

5. This petition is made bonafide.

In the premises your petitioners pray that Your Lordship may be graciously pleased to pass an order in terms of the joint letter dated 23-10-1986 (annexure "C") of the Management and the Union and treat the matter as closed and to pass such other order or orders as Your Lordship may deem fit and proper.

And for this your petitioners as in duty bound shall ever pray.

For and on behalf of  
American Express Bank Ltd. TRS  
Sd/- (Illegible)  
Manager  
Dated 9-12-88.

For and on behalf of  
American Express Employees'  
Union  
ASHISH KUMAR MITRA, General Secy.

"A"  
October 22, 1986

The Manager TRS (ER)  
American Express Bank Ltd TRS  
21 Old Court House Street  
Calcutta  
Dear Sir,

I refer to the dispute which is pending in conciliation regarding the question of whether I am in a position to continue to do my normal duties. It is unfortunate that the dispute has been pending for a long time. There is also a difference of opinion amongst the Doctors regarding my physical capacity to do my normal duties.

I have now finally decided, after having carefully considered the position and having consulted my trusted friends in the Union and in the office that it will be in my best interest to resolve the dispute by settlement and by resigning from the company and to look forward to a different future elsewhere. It was with this background that I had spoken to you. I thank you for having kindly agreed to make me an additional payment of Rs. 70,000 on an exgratia basis, keeping in view my long services with American Express. I am writing this letter to confirm that since you have kindly agreed to pay me an exgratia lumpsum amount of Rs. 70,000 besides my Provident Fund and Gratuity payment, I have decided to resign from the services of American Express as a result of which no dispute in conciliation and otherwise survives.

Please treat this letter as my resignation from the services of American Express with immediate effect accordingly. I confirm that on the submission of this letter of resignation, I shall have no other rights to employment or re-employment, for any claim or dues whatsoever either now or in the future against American Express. I am also forwarding a copy of this letter to the Union as well as to the Conciliation Officer so that the pending dispute in conciliation is closed on the basis of this letter.

I am also approaching the Conciliation Officer personally as well as to the Union to close the above matter pertaining to the dispute accordingly and you are also requested to approach the Conciliation Office directly to have the matter closed on the basis of this letter.

Thanking you.

Yours faithfully,  
Hardeo Singh

cc : The General Secretary, American Express Employees' Union.

cc : The Asst. Labour Commissioner, Nizam Palace,  
234/4 A. T. C. Bose Rd, Calcutta-700020.

"B"

## Memorandum

American  
Express

Date  
October 22, 1986  
City  
Calcutta India  
Office  
Manager-Travel  
Subject :

To : Hardeo Singh  
From : Dhruv Sharma

This has reference to your letter dated October 22, 1986 resigning from the services of American Express Bank Ltd. Travel Related Services.

This is to inform you that your resignation is accepted and you are released from the services of American Express with immediate effect.

Your Provident Fund and Gratuity dues will be paid to you at the earliest by the Provident Fund and Gratuity Trusts as per rules.

As regards the one time ex-gratia amount of Rs. 70,000 this is to confirm that the same will be paid to you from the company's account within a week, net of tax. A medical disability pension will also be payable to you as per rules by the Pension Trusts.

Please sign the duplicate copy of this letter and return it to the undersigned as a token of having received, understood and accepted the content.

We wish you and your family all the best.

Kind regards,

cc : A. Singh  
cc : A. Kalle

Travel Service

American Express International Banking Corporation  
Travel Division  
21, Old Court House Street  
P.O. Box 2311, Calcutta-700001 India  
Telephone 236281 Telex 0217574 Cable : AMEXCO.  
October 23, 1986.  
The Asst. Labour Commissioner (Central)  
2nd M.S. Building, 5th Floor  
Nizam Palace  
234/4, A.J.C. Bose Road  
Calcutta-700020

Sub : Industrial Dispute between Management of  
American Express Employees' TRS Union re.  
Shri Hardeo Singh

Dear Sir,

This is to inform that as a consequence of extensive discussions between the management of American Express and the American Express Employees' Union in this regard an implacable settlement has been arrived at between the parties to the entire satisfaction of all the concerned parties. The subject dispute has, therefore, been resolved to the entire satisfaction of all parties and as such no industrial dispute exists or survives in relation to any claims or otherwise made by Shri Hardeo Singh with reference to his employment in American Express.

A letter from Shri Hardeo Singh in support of this is also enclosed.

We would, therefore, jointly request you to close the subject case and consider the matter to be finally withdrawn by both parties.

Thanking you,  
Yours faithfully,  
For & on behalf of  
American Express Bank Ltd TRS  
DHRUV SHARMA  
MANAGER TRS (ER)

For and behalf of  
American Express Employees' Union  
A. K. MITRA, General Secy.

cc : Labour Commissioner (Central)  
2nd M.S. Building, 5th Floor  
Nizam Palace  
234/4 A.J.C. Bose, Road,  
Calcutta-700020.

का.भा. 3015:—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार कर्नाटक बैंक लिमिटेड के प्रबन्धतंत्र से संबद्ध निरीक्षकों और उनके कर्मचारों के बीच अनुबन्ध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधि-करण, बंगलूर के पंचपट को प्रकाशित करती है।

S.O. 3015.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the annexure, in the industrial dispute between the employers in relation to the management of Karnataka Bank Limited, Bangalore and their workman.

# BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-CUM-LABOUR COURT AT BANGALORE

Dated, the 22nd Day of May, 1989

## PRESENT :

Shri B. N. Lalge, B.A. (Hons), LL.B., Presiding Officer.  
Central Reference No. 11/88

## I PARTY :

Shri S. S. Sampat Kumar, Clerk  
C/o The General Secretary,  
Karnataka Bank Employees'  
Association, Dongerkery,  
Mangalore-575003.

Vs.

## II PARTY :

The Chairman,  
Karnataka Bank Limited,  
H.O. Mangalore-575003.

## APPEARANCES :

For the I Party—Shri Eric Sequeira, Advocate.

For the II Party—Shri K. S. Bhat, Advocate.

## AWARD

By exercising its powers under Section 10(1)(d) of the I.D. Act, the Government of India, Ministry of Labour made the present reference on the following point of dispute by its order No. L-12012/91/87-D.IV(A) dated 8th March, 1988.

## POINT OF REFERENCE

"Whether the action of the management of Karnataka Bank Limited, Mangalore, in dismissing from service Shri S. S. Sampat Kumar, Clerk, working in



Regional Office, Hassan, w.e.f. 1st January, 1986, is justified? If not, to what relief the concerned workman is entitled?"

2. The I party union has filed its claim statement and inter alia, it is contended as follows.

"Sri S. S. Sampath Kumar was a disabled ex-serviceman when he was appointed as a clerk in the II party bank. He was chargesheeted on 20th June, 1983 for gross misconduct on the allegation that he had fraudulently managed to avail loan on 27th August, 1982 from the Belagodu branch of the II party by executing and signing documents in the name of non-existing fictitious person. There was no admission on his part. The management ordered for an enquiry. After putting up a show of an enquiry, the management proposed punishment of dismissal. Then, he was dismissed from service with effect from 1st January, 1986. The allegations made against him are baseless. If the II party was really concerned about the interest of the bank, they would not have put up a case only against the said employee. A common disciplinary action ought to have been held against all the persons involved in the act of misconduct. The proceedings were taken against him, in order to shield and save other officials, especially the Manager of Belagodu Branch. Instead of arraigning them as delinquent officials, the management examined them as witnesses. The enquiry Officer was biased and prejudiced. The Enquiry Officer ought to have held that the persons responsible are other than the I party employee. The punishment of dismissal is excessive and disproportionate. An award may be passed for his reinstatement and all the consequential benefits.

3. The II party management has filed its counter statement and inter-alia, contended as follows.

The II party management received a complaint dated 25th November, 1982 from some members of the public to the effect that certain fictitious advances have been made by the Branch Manager of Belagodu branch. The II party directed the Inspecting Officer Shri P. Ramachandrayya to conduct an investigation. He investigated the matter and submitted a report dated 7th January, 1983. It was found that the I party employee Shri S. S. Sampat Kumar was then working in the Regional Office, Hassan and had availed a loan of Rs. 2,500 from Belagodu branch on 27th August, 1982 under fictitious names of one Sanna Shetty as a principal borrower and one Mohan Kumar as a co-obligant. The management issued a memo to him on 14th March, 1983. Then a chargesheet dated 20th June, 1983. He submitted an explanation dated 29th September, 1983. It was not satisfactory. Shri Seva Memirja Malla was appointed as an Enquiry Officer. A detailed enquiry was held against him. The Enquiry Officer submitted his report dated 15th November, 1985, holding him guilty. A notice dated 7th December, 1985 proposing the punishment of dismissal was issued to him. He was given an opportunity of personal hearing. The said employee admitted to his guilt at the time of personal hearing and sought for leniency. Considering the material on record and his past record, the management found that the punishment of dismissal is the proper one. His past record was very bad. By an order dated 19th September, 1983, his two annual increments have been stopped for serious acts of misconduct. He had submitted an appeal. He was given personal hearing on 10th March, 1986. He again admitted and sought for leniency. In view of the past record and the gravity of the charges, his appeal was dismissed on 24th March, 1986. The order is justified. The other allegations made by the I party are denied. The reference may be rejected.

4. In view of the aforesaid pleadings, a preliminary issue was drawn up as follows:

"Whether the II party proves that the domestic enquiry held by it is in accordance with law?"

5. The II party management examined MW-1 and Exs. M-1 to M-28 were got marked.

The learned counsel for the I party submitted that the I party has no evidence.

7. The parties were heard on the preliminary issue.

8. By a considered order dated 7th October, 1988, it has been held that the domestic enquiry held against him is in accordance with law. The parties were then called upon to adduce further evidence, if any, and argue.

9. The management has then examined MW-2. With consent of the parties, Exs. M-30 to M-38 were marked.

10. The learned counsel for the I party submitted that he had no evidence.

11. The parties were heard.

12. By finding on the point of reference is as follows:

The management of Karnataka Bank Limited, Mangalore were justified in holding that Shri S. S. Sampat Kumar, Clerk, was guilty of the misconduct as shown in the charge sheet. By invoking the provisions of Section 11-A, the punishment of dismissal is substituted to the one as shown below.

#### REASONS

13. The chief bone of contention, as put forth in the claim statement is that if any acts, which are fraudulent and detrimental to the interests of the bank have been committed, if the II party was concerned about its own interests, the management should have arraigned the I party employee and the Bank Manager of Belagodu branch also as the concerned employee. It is then contended that in order to shield the said Branch Manager, proceedings were initiated only against the I party employee and the other persons were cited as witnesses against him. MW-2 Sri I. S. Krishna Bhat, the Law Officer of the bank has been examined to prove the previous record of the employee. In cross-examination in para 11, he admits that the responsibility of a Manager of a branch is greater than that of the clerk in managing the affairs of the bank. He has been questioned whether Sri T. S. Krishna Bhat, the then Manager of the Belagodu branch had been dealt with leniently than the I party. The witness has stated in para 15 that he does not know about it. The evidence of MW-1, the Enquiry Officer is not of much consequence in order to examine whether the Branch Manager was also guilty and where the bank has proceeded against the I party employee, in order to shield him. Exs. M-1 to M-15 are all the documents showing that MW-1 was appointed as the Enquiry Officer, that on Ramaprasad was appointed as the Presenting Officer, that the Enquiry Officer had issued notices of enquiry, that he recorded evidence and admitted documents, that he received written briefs and finally gave his report. Ex. M-16, the report of the Enquiry Officer discloses in para 10 that all the documents marked by the enquiry Officer except Ex. M-8 were admittedly cooked up documents. The said branch manager and the employee Sri S. S. Sampat Kumar both agreed on that point. Para 11 of Ex. M-16 shows that Krishnamurthy Bhat, the Branch Manager admitted in the cross-examination that he had advanced another fictitious loan to some other person, that he was charge sheeted by the management, that he admitted to his guilt and that the management had punished him by withholding one increment. The Enquiry Officer has finally arrived at a conclusion that the employee had fabricated the documents and had been responsible for the false signatures of the borrower and co-obligant. The chargesheet issued against the workman in the present case is the first document of Ex. M-17 series. Ex. M-18 series are the documents marked as Exs. C1 to C14 in the enquiry. The Enquiry Officer has marked it as Ex. M-1 in his proceedings. The charge reads that the I party employee had fraudulently managed to avail a loan of Rs. 2,500 on 27th August, 1982 from the Belagodu branch by executing documents in the names of fictitious persons and that his said act was fraudulent and detrimental to the interests of the bank. The explanation of the workman is the second document of Ex. M-17 series. He has denied the charge and stated that it is false and baseless. In his report Ex. M-16, the Enquiry Officer has quoted in extenso various statements made by the employee. The statement given by the employee before the enquiry Officer is at Ex. M-9. His simple case is that he had just told the Branch Manager that he wanted some money and when he went to the branch office, the manager gave him a D.D. of Rs. 2,500. The cross-examination by the Presenting Officer at paragraph 2 to 5 amply justifies the findings of the Enquiry Officer in Ex. M-16. From the documents at Exs. M-1 to M-16 and the evidence



of MW-2, it cannot be said that the management had any reason to shield the branch manager Krishnamurthy Bhat and that there is hardly any substance in the contention of the I party that it has shielded him. On the other hand, the evidence on record shows that disciplinary action had been taken against him and since he admitted, the II party management had exercised its discretion under the provisions of the bipartite settlement and had imposed the punishment of stoppage of one increment.

14. The evidence of MW-2 Shri T. S. Krishna Bhat, the Law Officer shows that on an earlier occasion, he had been appointed as the Enquiry Officer and on conducting an enquiry against the I party employee, he gave the report as per Ex. M-19. The chargesheet of that enquiry is marked at Ex. M-20 and the explanation of the employee is at Ex. M-21. Ex. M-22 is the order of the disciplinary authority issued to him. Ex. M-22 and the evidence of MW-2 thus establish that on three occasions in 1981, he had encashed cheques, though he had no sufficient balance and on other three occasions in 1981, he had issued cheques to various parties, knowing full-well that he had no balance in his account. For the said acts of misconduct, the management had imposed the punishment as per Ex. M-22 of withholding one annual increment for the year 1984-85.

15. After MW-1, the Enquiry Officer gave his report Ex. M-16, the management had issued the second show-cause notice to the employee as per Ex. M-23. The punishment proposed was of dismissal. In the personal hearing given to him on 24th December, 1985, as per Ex. M-25, it is to be found that he admitted that he had availed that loan and promised that he will not commit any such act in future and prayed that a punishment of dismissal may not be passed. Ex. M-26 is the order passed by the disciplinary authority and thereby he has been dismissed. Ex. M-27 is the appeal filed by him. In his appeal, he states that during his personal hearing, he had submitted that he was in great difficulty and that he was undergoing innumerable hardship, that he has an aged mother and unmarried sister, that he is a disabled ex-serviceman and that a lesser punishment may be imposed. In Ex. M-27, it has been also shown that in the case of one Rajanna who had been issued with a similar chargesheet, the management has imposed the punishment of stoppage of two increments has that even the same punishment may be imposed and that he may not be treated differently. In the personal hearing given to him by the appellate authority on 10th March, 1986, he stated as per Ex. M-28, that he was aged 35 years and he cannot secure job anywhere else and that the punishment of dismissal may not be confirmed. Ex. M-29 is the order, rejecting his appeal. The appellate authority has stated that an opportunity had been given to him in the initial stage itself that he may admit regarding the misconduct and that the management had proposed to close the matter by inflicting a lesser punishment, but that he had not availed of the same and therefore further proceedings were held and that since he had committed acts of misconduct, the management found that it was not in the interest of the bank to keep him in their employment. The contention of the workman that the management has discriminated against him, in as much as he has been dismissed from service, whereas the Branch Manager Krishnamurthy Bhat and another employee Rajanna have been retained in service by imposing lesser punishments, cannot be accepted. Clause No. 19.12(a) states that an enquiry need not be held if the bank had issued a show-cause notice to the employee, advising him of the misconduct and the punishment for which he may be liable for the same, and if the employee makes voluntary admission of his guilt in reply to the show-cause notice. If the management had exercised its discretion to proceed under the aforesaid clause against all the three of them viz., Krishnamurthy Bhat, Rajanna and the I party Sri S. S. Sampat Kumar and if the former two have accepted and admitted and if the management had imposed on them lesser punishments, it cannot be said that the management had indulged in any discriminatory act or has indulged in unfair labour practice.

16. On being asked by the I party, the management had produced the relevant documents relating to the case of Krishnamurthy Bhat and Rajanna. Ex. M-30 is the chargesheet issued to Krishnamurthy Bhat and Ex. M-33 is the one issued to Rajanna. Ex. M-31 is the reply given by Krishnamurthy Bhat. It shows that he admitted to his guilt and assured that he would be careful in the future. He has further

explained that he has already paid the amounts from his own pocket, in order to avoid loss to the bank and that a punishment of withholding one increment without cumulative effect may be passed. Ex. M-32 is the order passed against Krishnamurthy Bhat and it shows that he had been punished with withholding of one increment. Ex. M-34 is the reply given by Rajanna. He has also admitted to his guilty and has submitted that he deserves punishment, but he prays that a lesser punishment may be imposed. Exs. M-35 and M-36 indicate that the management passed an order of withholding his increment for the year 1984 and 1985. Ex. M-37 is the explanation given by William D'Souza, another employee who was guilty of a similar act of misconduct. He has admitted to his misconduct. Ex. M-38 shows that the punishment of warning was given and the matter was closed.

17. On going through the aforesaid evidence, oral and documentary, I find that it cannot be said that the Enquiry Officer had not taken into account the fact that the Manager Krishnamurthy Bhat had been liable to a greater extent than the workman.

18. The learned counsel for the I party contended that the Enquiry Officer had not been asked to give any finding whether the alleged misconduct amounted to any offence under the I.P.C. but that the Enquiry Officer being biased has recorded that the misconduct involved moral turpitude. The report of the Enquiry Officer, Ex. M-16 shows that he has recorded the findings with reference to the acts of misconduct, as shown in the chargesheet. While discussing the evidence and the nature of the misconduct, if any observation has been made regarding moral turpitude of the act of misconduct, I do not find that an inference arises that he was biased for interested.

19. The learned counsel for the I party strongly contended that the punishment imposed on the I party workman is highly disproportionate, besides being discriminatory. He placed reliance on the case of R. M. Parmar Vs. Gujarat Electricity Board (19 I L.L.J. page 261). The authority states that an employee is not bound to admit the charges or plead guilty in order to invoke the jurisdiction of the court under Section 11-A of the I.D. Act and that even if he is in fact guilty, he has the right to invoke Section 11-A of the Act for reduction of the penalty. The authority does not support the contention of the I party that the management has discriminated against the employee. Since the discretion to dispense with the domestic enquiry by proposing lesser punishment is vested in the management, by virtue of the bi-partite settlement as shown above, it has been held that the management has not discriminated against the I party employee. As regards the jurisdiction and power of this court, there can be no two opinions that even if the employee does not admit and even after a prolonged enquiry or trial, he has been found guilty, he can crave the indulgence of the court by invoking the provisions of Section 11-A of the Act.

20. The learned counsel for the I party then cited the case of Scooter India Limited Lucknow Vs. Labour Court, Lucknow (AIR 1989 Supreme Court page 149). The principle laid down in the authority is that even if the disciplinary enquiry is fair and lawful and even if the findings are not vitiated, the Labour Court has the power to interfere and order for reinstatement etc. and that the approach should be reformative.

21. On the other hand, the learned counsel for the II party contended that at the time of the investigation of the matter, the I party employee had accepted that he was the beneficiary, but when the charge-sheet was issued, he denied, whereas the others had admitted and therefore the management had to hold an enquiry and proceed against him. He further submitted that in regard to the other three persons such as Krishnamurthy Bhat, Rajanna and William D'Souza, the management was justified in imposing a lesser punishment. He cited the case of Hamdard Dawakhana Wakf Vs. Its workman and others [1962 (2) I.L.J. page 772]. The authority is on the point that the finding recorded in the domestic enquiry can be called as perverse only if it is shown that it is not supported by any evidence or that the finding is opposed to

the whole body of evidence adduced before the Enquiry Officer. On page 53 of the authority, it has been stated that the past record of the workman was not without blemish and under such circumstances, it is held that the management was justified in imposing the punishment.

22. The learned counsel for the II party then relied upon the case of workmen of Tanning and Finishing Unit, Vinne-mangalam Vs. Management, Tanning and Finishing Unit and another (Vol. 55 F.J.R. page 170). The authority shows that when some workmen were taken back on their expressing regret and when the said act was challenged by the dismissed workmen found guilty of the same offence, it has been held that it cannot be said that by a rule of thumb, the management has discriminated against the workmen who have been dismissed. The punishment, indeed, depends upon the facts and circumstances of each case and there cannot be a general or universal rule.

23. The learned counsel then cited the case of Wimco Sramik Union Vs. Seventh Industrial Tribunal (1987 LAB. I.C. Page 77). The rule enunciated in the authority is that the ground that the workman had rendered long service and that the stolen property was worth of Rs. 150 only did not justify interference by the Tribunal.

24. There is no doubt that the I party employee had committed an act of misconduct which is prejudicial and detrimental to the interests of the bank. The record further shows that the management has been rightly justified in imposing a different punishment on the employee as compared to the punishment imposed on Krishnamurthy Bhat, Rajanna and Willam D'Souza. Taking into account that the approach of this Tribunal should be reformatory, that the fact that the I party employee has not admitted to his guilt before the management should not be a ground for not invoking the provisions of Section 11-A of the I.D. Act. and that he has subsequently felt repentant, I find that there should be a lesser punishment than the dismissal. The employee has put forth several grounds that he has been a disabled ex-service-man, that he has an aged mother and unmarried sisters and that he himself is now aged 35. One cannot forget the fact that the management has still retained in its service the branch manager Krishnamurthy Bhat, who was admittedly more responsible for the said act of misconduct. Merely because the I party employee was working in the Regional Office, there was no jurisdiction for the Branch Manager of Belagodu branch to advance loan in the name of fictitious persons. Taking into account all these factors, I find that the punishment of stoppage of three increments and loss of all the backwages would meet the ends of justice.

25. In the result, an award is passed to the effect that the action of the management of the Karnataka Bank Limited, Mangalore of holding Shri S. S. Sampat Kumar guilty of the charges as shown in the first document of Ex. M-17, is justified. It is however directed that under Section 11A of the I.D. Act the stoppage of three increments of 1985-86, 1986-87 and 1987-88 with cumulative effect and loss of all backwages shall be the punishment but that it shall reinstate him within one month from the date that this award comes into effect.

B. N. LALGE, Presiding Officer  
[No. L-12012/91/87-D.IV(A)/IR(B)-I]

का. प्र. 3016—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अन्वय में, केन्द्रीय सरकार बैंक बैंक लिमिटेड, बंगलूर के प्रबंधक के संबंध में निम्नलिखित और उनके कर्मचारियों के बीच, प्रत्यक्ष में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, बंगलूर के प्रबंधक को प्रकाशित करती है।

S.O. 3016.—In pursuance of section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Govt. hereby publishes the award of the Central Government Industrial Tribunal, Bangalore as shown in the annexure, in the industrial dispute between the employers in relation to the management of Vysya Bank Ltd., Bangalore and their workman.

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL CUM LABOUR COURT AT BANGALORE

Dated 25th January 1989

PRESENT :

Shri B. N. Lalge, B.A. (Hons), I.L.B. Presiding Officer

Central Reference No. 173/87

### I PARTY

Sri B. V. Nagarajachar Va.  
No. 17, 5th Cross  
5th Main  
Hosahalli Village  
Vijayanagara  
Bangalore-560040.

### II PARTY

The Chairman & Managing Director  
Vysya Bank Limited  
Administrative Office  
No. 72, St. Marks Road  
Bangalore-560001.

### APPEARANCES :

For the I party Shri B. A. Raja Rao Scindia, Advocate.

For the II party Shri B. C. Prabhakar, Advocate.

### AWARD

By exercising its powers under Section 10(1) (a) and (2A) of the Industrial Disputes Act, the Government of India, Ministry of Labour has made the present reference on the following point of dispute by its Order No. L-12012/75/87-D. IV(A) dated 4-12-1987.

### POINT OF REFERENCE

"Whether the action of the management of Vysya Bank Limited, Bangalore in dismissing from services Shri B. V. Nagarajachar, clerk, with effect from 7-8-1985, is justified if not, to what relief the workman is entitled to?"

2. The I party, in his claim statement, inter alia contends as follows.

He joined the II party as a Trainee Clerk on 4-11-1969. Then he was posted on probation. After that, he was confirmed and he was working to the entire satisfaction of the management. Then he was transferred to Ulsoor Branch, Bangalore. One Sri K. Ranga Krishna Setty threatened him, saying that he will be transferred elsewhere. Since his children are being educated in Bangalore and he had settled in Bangalore, he became worried. He requested the said K. R. K. Setty to suggest some remedy. K. R. K. Setty, the Accountant consulted Branch Manager Sri Venkataramanaiah and promised him that he will help him. It was in July 1977, an opportunity was provided to the general public to open S. B. accounts, with a view to encourage the habit of saving. Then taking it as an opportunity, the then Accountant instructed him to prepare necessary application form and challan in order to open the S.B. Account in the name of Smt. Kamalamma. He followed his instructions. He was not knowing who that lady Smt. Kamalamma was. He did not obtain her signature when the S.B. account was opened. He was not instrumental in opening S.B. account No. 5213 in the name of Kamalamma. Under the instructions of the said K.R.K. Setty and Venkataramanaiah, the accounts were manipulated, fictitious transfers were made and demand drafts, bills and hundies were exchanged. He suspected and also raised doubts about these things. The said Account told him that if at all he wants to continue in the same branch, he should follow his instructions and co-operate in the said nefarious, illegal and unjustified transactions. Since, he was very much afraid of the transfer and since assurance was given to him by the said Accountant and Manager, he was forced to keep quiet. The said things continued till the order of suspension dated 7-10-80 was issued to him. He

submitted a petition dated 15-11-80 that he was not involved and he was not responsible for the misappropriation. He demanded for an impartial enquiry. He issued two legal notices dated 6-10-80 and 3-11-80. The then Manager visited his house when he was ill and could not move from his bed. After the lapse of one year and 9 months, articles of charges dated 1-6-1982 were issued to him. He sent a detailed explanation dated 12-7-1982, denying the charges. The management did not consider the same. An enquiry was ordered. A retired Superintendent of Police Shri K. S. Narasimhamurthy, Special Officer was appointed as the Enquiry Officer. The action of the management in appointing retired Superintendent of Police as an Enquiry Officer was to victimise him. No show cause notice or chargesheet was issued to the said accountant and Branch Manager. The action of the management is discriminatory. He made several requests to permit him to engage a competent person to defend himself knowing law, as per clause 19.12 (a) (iii). The Enquiry Officer did not consider his request. He was biased. He made similar request to the management, but they rejected. One more chargesheet dated 31-10-83 was issued to him, alleging misappropriation etc. He sent his detailed explanation dated 30-12-83, denying the charges. The said Accountant and Manager were cited as witnesses against him. The Enquiry Officer did not follow the principles of natural justice. Some of the charges were not proved. After the receipt of the enquiry report, the management issued him a show cause notice dated 11-1-1985. After 3-1/2 years, the management improved its case and then the II chargesheet was issued to him. He gave his detailed explanation. He was dismissed from service by an order dt. 7-8-85. It is illegal and unjustified. The findings of the Enquiry Officer are not sustainable. The said amounts have been transferred to the hands of the said K. R. K. Setty, who was acting in collusion with the Manager. Material witnesses were not examined in the enquiry. The concerned lady, Smt. Kamalamma was not examined. He is innocent. After the order of dismissal, he approached the Chairman and also the Joint General Manager. They did not render justice to him. Then the dispute was raised. The conciliation failed. Hence, it is proved that the order of dismissal may be set aside and he may be ordered to be reinstated with all the consequential benefit.

3. II party management has filed its counter statement and inter alia, it is contended as follows.

The II party is registered under the Company Act, It is governed by the banking regulation Act. It has employed about 4,450 employees. Being a banking institution, a very high degree of honesty, integrity and devotion to duty are required from its employees. He was placed under suspension by an order dated 7-10-80. Chargesheet dt. 11-6-82 and 3-10-83 were issued to him. Two separate enquiries were held against him. The Enquiry Officer held that some of the charges were proved against him. For the charges proved against him, he was dismissed from service by an order dated 7-8-85. The charge provided against him were of forgery, falsification of accounts and criminal misappropriation of a sum of Rs. 17,039.85. He did not prefer any appeal. Three months after his dismissal, he made an application for payment of his P.F. It was settled by issuing a cheque dated 12-5-86. His contention that he worked to the entire satisfaction of the management is not correct. The allegations made by him against the Accountant Shri K. R. K. Setty and S. V. Ramanaiah are totally false. It is false that they threatened him that he will be transferred to some other place. As per para 1.56 of Chapter I of the Vyasa Bank Manual or Instructions, if there is any departure from the rules and regulations and if any official feels that the Branch Manager is acting in a manner which lowers the prestige of the bank or jeopardises interest, it is his duty to report the matter to the administrative office. If there was any truth in the said averment, nothing prevented him from making a report to the administrative office. He did not send any such report. There is no truth that the Accountant instructed him to prepare an application and a challan for opening the S. B. account in the name of Smt. Kamalamma and he followed the instructions. There is no truth that he did not know Kamalamma and was not instrumental in opening S. B. Account No. 5213 in per name. According to the address

furnished by him, he was putting up in residence No. 9/2, G. Road, 1st Cross, Ulsoor whereas Kamalamma was putting up in Residence No. 9/1, G. Road, 1st Cross, Ulsoor. When the said S. B. account No. 5213 was opened on 16-9-74, K. R. K. Setty was not all working in the Ulsoor branch. Then he was working as a clerk in Kollegal branch. On that day one Sudhakara Gupta was working in Ulsoor branch as an Accountant. The I party to open for introducing the said Kamalamma, in order to open that account. The legal notices dated 6-10-80 and 3-11-80 by his advocate have been appropriately replied. It is not true that K. R. K. Setty or S. V. Ramanaiah held out any threats to him. It is true that he had sent his explanation dt. 12-7-82 to the 1st chargesheet dated 1-6-82. His contentions that he acted under the instructions of the Accountant and Manager has not been substantiated, since he declined to participate in the enquiries. He had prepared the debit notes, credit notes, transfer slips and withdrawal slips and he had obtained the approval of K. R. K. Setty by misrepresentation and had induced K. R. K. Setty to put his initials. His explanation was not correct. Then an enquiry was ordered. It is true that Sri K. S. Narasimhamurthy, Special Officer (Special Grade) is a retired Deputy Superintendent of Police. While in police service, he was in charge of Law Department in the office of the Director General of Police and after retirement on 11-3-1969, he was appointed as the Special Legal Officer and thereafter he was appointed of the Director of Enquiry in the Karnataka Electricity Board and had conducted domestic enquiries in the Board. He was found to be well conversant with the procedure of conducting domestic enquiries and therefore he was appointed by the bank as a Special Officer in the Special Grade. He has held some enquiries against other employees of the bank and it is not only case of the present workman, in which he was the Enquiry Officer. It is denied that the management appointed him as the Enquiry Officer to victimise him. The bank found that K. R. K. Setty, S. V. Ramanaiah are not involved in the fraud. The allegation that the management exonerated them is baseless. It is not true that the action of the management is discriminatory. It is true that he had made representations to permit him to be defended by Sri B. A. Raja Rao Scindia, stated to be a trade union leader and an advocate. Even earlier to his request, the Enquiry Officer on 30-12-82 permitted him to be defended by a representative of a registered trade union of bank employees, of which he is a member or by any other person as provided in clause 19.12 (i) (v) or clause 19.12 (ii). After hearing arguments, the Enquiry Officer passed an order on 1-3-83, rejecting his application to be defended by a lawyer. He made an application to the management on 3-3-83 for permission to be defended by an advocate. The General Manager rejected his application by an order dt. 9-3-83. The management representative in both the enquiries was neither an advocate nor a trained person. The management was justified in refusing to permit him to be defended by a person, as requested by him. It is true that a chargesheet dated 31-10-83 was issued to him and he has sent reply dated 30-12-83, denying the same. His reply was not acceptable. An enquiry was ordered. He was not permitted to be defended by an advocate for the same reason. It is denied that the Enquiry Officer was biased. It is baseless to say that instead of issuing chargesheets to them the said K. R. K. Setty and S. V. Ramanaiah were taken as witnesses because the management was partial to them. Each chargesheet is distinct one from another. The I party participated in the enquiry of the first chargesheet till 23-8-83 and then walked out declaring that he will not participate, as he had not been permitted to be defended by a legal practitioner. The Enquiry Officer had no alternative than to place him ex-parte and conclude the enquiry. In the refund chargesheet he participated in the enquiry till 3-8-84 and when the evidence of CW-1 Venketachaliah Setty was being recorded, he got up and declared that he will not participate and refused to receive a copy of his deposition, partially recorded by the Enquiry Officer and went away. The Enquiry Officer had no other alternative but to proceed with the enquiry and close it. Having failed to participate in the enquiries, it is not open to contend that they are ex-parte enquiries. It is denied that in order to shield the said Accountant and the said manager, the management did not take any action against them. When the I party workman was dismissed

from service, the said two officers were not at all working in the Ulsoor branch. The first chargesheet has nothing to do with the second chargesheet and it is not true to say that the matter was revised after a lapse of 3 years. All necessary witnesses and documents were produced before the Enquiry Officer. Smt. Kamalamma could not be produced since in spite of the best efforts. She could not be traced. There is no substance in the contention that the findings are based on conjectures and surmises. It is denied that he was only an instrument in the hands of the said officers and he acted as per their instructions. It is denied that the punishment is disproportionate to the acts of misconduct. At no point of time, he approached the Chairman or the Joint General Manager. The other allegations made by him are not correct. The reference may be rejected.

4. In view of the said pleadings, a preliminary issue was raised as shown below. It was taken up as a preliminary issue.

"Whether the II party proves that it has held the domestic enquiry in accordance with law?"

5. The II party examined the Enquiry Officer and got marked Exs. M-1 to M-28.

6. The workmen examined himself

7. The parties were heard.

8. By a considered order dt. 1-8-88, it has been held that the management has conducted both the enquiries in accordance with law.

9. The parties were called upon to adduce further evidence if any and argue.

10. On 3-10-88, the I party filed I.R. No. 3 seeking permission to produce office copy of the legal notice dated 28-9-80 and the reply dated 23-10-80.

11. On 3-10-88, I.A. No. IV was filed by the I party seeking for the production of a voluntary letter dated 20-9-80 written by the I party and given to the Manager S. V. Ramanaiah. By a list dated 2-11-88, the II party has produced xerox copy of the letter. Production of two documents filed under I.A. No. 3 has been allowed, subject to proof and relevancy.

12. On 23-12-88, I.A. No. 5 has been taken on record. It is an application under section 153 of C.P.C. read with Section 11 of the I.D. Act. The I party has prayed that order dated 1-8-88 may be rectified or corrected.

13. Except for the production of the aforesaid documents, no evidence has been adduced by either side, after the finding on preliminary issue was recorded on 1-8-88.

14. The learned counsel for the II party has been heard.

15. The learned counsel for the I party has been asked and in addition, he has filed his written arguments.

16. My finding on the point of reference is as follows :

The action of the management of Vysya Bank Limited, Bangalore, in dismissing from services Shri B. V. Nagarajachar, Clerk with effect from 7-8-1985 is justified and he is not entitled to any relief.

### REASONS

17. In the written arguments in Para 16, the I party has stated that the application dated 13-12-88 filed under Section 153 C.P.C. read with Section 11 of I.D. Act may be considered and a separate finding may be recorded.

18. The learned counsel for the II party contended that the said application, marked as I.A. No. 5 is not maintainable.

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19. In I.A. No. 5, the I party has stated that this Tribunal may be pleased to rectify or correct the order dated 1-8-1988. In the affidavit enclosed to the application, it has been stated by the I party workman that the Enquiry Officer was not an independent person but that he was appointed as a Special Officer in Special Grade and he is a retired person of the police department. It is further alleged that there will be always bias against workman by such a person and that material witnesses were not examined and that principles of natural justice were not being followed and thus these points may be considered afresh. Section 153 of the C.P.C. applies to cases where there is some inadvertent defect on error in any proceeding in a suit. The condition to effect the amendment is that all such amendments should be made for the purpose of determining the seal question in issue raised by the parties. The order dt. 1-8-88 on the preliminary issue has been passed, after recording evidence and hearing the parties. What is the defect or the error has not been pointed out. The I party intends that the domestic enquiry should be set aside on the ground that the Enquiry Officer is a retired Deputy Superintendent of Police and that material witnesses were not examined and that principles of natural justice were not followed. All these points have been elaborately dealt with in the order dated 1-8-1988.

20. The learned counsel for the I party has referred to the case of Kuchwar Lime and Stone Co. Ltd. Vs. S. N. Banerji (A.I.R. 1941 Privy Council page 128). The authority is on the point that as per Sections 151 and 144, a person found to be a trespasser is not entitled to restitution. The authority has no bearing as regards Section 153 of the C.P.C. The reference was made to the case of State of Maharashtra Vs. Ramdas Shrinivas Navak (AIR 1982 Supreme Court, Page 1249). The authority is with reference to the happenings in court, said to have been wrongly recorded. It is not pertinent. An application under Section 153 C.P.C. or Section 11 of I.D. Act is not maintainable for review of the order. In my view, the provisions of Section 153 C.P.C. or Section 11 are not applicable and that I.A. No. 5 shall have to be rejected in the first instance, it is held that I.A. No. 5 is liable to be rejected and accordingly it is rejected.

21. Since the finding arrived at by this Tribunal is that the management has held the domestic enquiry in accordance with law, the next questions that call for discussions are whether the findings are perverse and whether the management has victimised the workman, as alleged by him.

22. There is a two-fold test for perversity. The first test is whether the findings are not supported by any legal evidence at all. The second test is whether on the basis of the material placed on record, no reasonable person could have arrived at the findings complained of. Under the heading Perversity on pages 874, 875 and 876 of the law of Industrial Disputes by O. P. Malhotra Vol. II, 4th Edition, it has been stated that a finding recorded in a domestic enquiry can be characterised as perverse only if it is unsubstantiated or if it is not supported by any evidence at all or that it is entirely opposed to the whole evidence adduced before it or that no reasonable person could have arrived at the finding on the basis of such evidence. It has been further stated that it is essential to bear in mind the difference between a finding which is not supported by legal evidence and the finding which may appear to be not supported by sufficient evidence or it is based on inadequate or unsatisfactory evidence. It has been further observed that a wrong finding is not necessarily a perverse finding and a finding cannot be described to be perverse merely because it is possible to take a different view on the evidence. It has been then stated that in deciding the question, a particular conclusion of fact is perverse or not, the Tribunal will not be justified in weighing the evidence for itself and determining the question of the perversity of the view arrived at by the Enquiry Officer in the light of its own findings on the question of fact.

23. In order to appreciate the contention of the I party that the findings of the Enquiry Officer are perverse, it would be fruitful to set forth in the first instance his own case.

24. Briefly, stated, it is his case that he had settled in Bangalore and he was very much concerned about the education of the children and had no inclination to countenance any suggestion of transfer from Bangalore. At such a point of time, Accountant K.R.K. Setty and the Manager S. V. Ramanaiah assured him that if he acted at their behest, they will see that he will not be transferred out of Bangalore and at their instigation and for their benefit, he acted as per their instructions and if the documents and accounts of the bank have been meddled with and if the monies have been misappropriated, it is all for the benefit of those two persons. He then contends that the management intended to shield K.R.K. Setty, he being the son of one of the Directors of the Bank and so also S. V. Ramanaiah and in order to protect them, he had been made a scapegoat.

25. In the claim statement, in Para 3, he states as follows :—

"It is respectfully submitted at this stage one Sri K. Ranga Krishna Setty who was working as Accountant at the material point of time firstly put him under threat of transfer that the workman could be transferred elsewhere. Since after a great struggle he took transfer to Bangalore wherein the education of his children were settled and in case the unforeseen transfer is implemented, as represented by Sri R. Ranga Krishna Setty, he was very much worried annoyed and afraid of being shifted his family to the place where he may be transferred. Therefore, the workman requested the said the then Accountant Sri K. Ranga Krishna Setty to suggest him some remedy or use his influence to overcome the alleged transfer. Thereafter, the then Accountant told that after consulting the then Branch Manager Sri Venkataramanaiah (wrongly mentioned as Ramanaiah) he would help to overcome the alleged transfer. This was during the month of July 1977.

26. In the claim statement, in Para 3, he has again stated as follows :—

"It is relevant at this stage to mention that the year 1974 is a year of opportunity thrown to the general public and inviting them to open S. B. Account with a view to encourage and inculcate the habit of savings to those who could open savings bank account and taking this as an opportunity the then accountant instructed this workman to prepare necessary application form and challan in order to open S. B. Account in the name of one Smt. Kamalamma. Thereafter, he followed his instructions, but the workman was not knowing who was that lady Smt. Kamalamma and also at the same time he did not obtain her signature at the time of opening the S. B. account. In fact the workman was not instrumental in opening the S. B. account bearing No. 5213 in the name of the said Smt. Kamalamma and that is how under the instructions from the said the then Accountant Sri Ranga Krishna Setty and the then Manager Sri Venkataramanaiah the accounts were being manipulated, fictitious and transfers were being made from one account to another which includes exchange of Demand Drafts, Bills, Hundis etc. However, this workman suspected and also raised doubts about these unethical and misuse and misappropriation of funds both belonging to the Bank as well as the customer, for which the said the then Accountant replied if at all this workman wants to continue in the same branch at Bangalore alone that he should follow the instructions and co-operate in this nefarious illegal and unjustified transactions.

Again, he has stated as follows :—

"However, these manipulations of account stealthily withdrawing the money from various accounts con-

tinued till the workman was issued with a suspension order bearing No. Admn. C-13493/80, dated 7-10-1980, keeping him under suspension. Thereafter, this workman submitted his petition dated 15-11-1980 denying the allegations made at paragraph-1 and 2 of the letter of suspension stating that he has not at all involved or responsible for the misappropriation of amount, as shown in the order of suspension.

27. Again, in Para 10, he states as follows :—

"First of all, this workman was an instrumental in the hands of the then Accountant Sri Ranga Krishna Setty as well as the then Branch Manager Sri Venkataramanaiah, of Ulsoor Branch. In fact the alleged money which is alleged to have been misappropriated were not at all misappropriated on various dates by this workman, on varying amounts, aggregating to Rs. 17,606.26 Ps. The said amount have already been transferred in the hands of the then Accountant Sri Ranga Krishna Setty who in fact colluded with the Manager and at the same time the said the then Manager Sri S. Venkataramanaiah abetting to commit the said heinous crime by collusion in the name of this workman.

28. In para 13, he further states as follows :—

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He was innocent and he was afraid of going for any transfer and in fact he was an instrument in the hands of those officers referred to above and acted according to their instructions and in fact no money was misappropriated by him and therefore he did commit any fraud, dishonest, misappropriation of amount that may warrant moral turpitude.

29. The management, in the counter statement, in reply to para 3 of the claim statement has stated that in para 1.56 of Chapter I of the Vysya Bank Manual of Instructions, it is stated as follows :—

"Duty to report to Administrative Officer if Manager conduct jeopardises Bank's interest. While any other officer is subordinate to the Manager and must obey his instructions, he must realise that he is directly and personally responsible to A. O. being the second official of the branch in regard to the proper conduct of the bank's business. Where there is any departure from the rules and regulations or when he feels that the conduct of the Branch Manager in any particular field is such as to lower the prestige of the bank or jeopardise its interests, it will be his duty to report the matter to Administrative Office preferably through the Manager himself, if that course is deemed desirable by him, or directly. Other members of the staff have also a similar responsibility."

30. The Management has then contended that nothing prevented the workman from making a report to the administrative office, if at all he was made to indulge in irregular or illegal acts at the behest of K.R.K. Setty and S. V. Ramanaiah, but that no such report has been made by the I party workman and that the allegations made by him are all false.

31. The management has been contended that none other, except the I party workman was instrumental in opening S. B. Account No. 5213 in the name of one Kamalamma. It has been further contended by the management that on 16-9-1974 when the said account of Kamalamma was opened, K.R.K. Setty was actually working as a Clerk in Kollegal branch and that form and challan were duly filled in and were taken to the then Accountant Sudhekar Gupta.

32. It is further contended by the II party bank that the I party workman was himself instrumental in opening the S. B. Account No. 5213 in the name of Kamalamma.

33. In reply to Para 4 of the claim statement, the management contends that the I party workman had prepared the debit notes, credit notes, transfer slips and withdrawal slips, but he had obtained the approval of K.R.K. Setty by false representation and believing him K.R.K. Setty had affixed his initials on them. Whether the Accountant K.R.K. Setty and the Manager S. V. Ramanaiah had any hand in all the charges and whether the workman has only acted at their instructions could have been demonstrated by the workman himself by participating in the two enquiries. Instead, the I party workman has walked out of both the enquiries at the initial stages on the ground that the Enquiry Officer and the management did not permit him to have the assistance of a lawyer. While dealing with Issue No. 1, it has been specifically observed that the workman had no right to insist upon the assistance of a lawyer, when the management was not willing to permit him for such assistance. It has been further held that the workman had the facility of having the assistance of a person of his choice, as provided in clause 19.12 (a) (ii) of the bipartite settlement. The validity of the domestic enquiry is no more a point in issue. The learned counsel for the I party has however dealt with the matter at great length, in the written arguments regarding the validity of the domestic enquiry itself. In the first place, it requires to be examined whether the findings of the Enquiry Officer, in both the enquiries are supported by legal evidence, or whether any reasonable person could have arrived at the findings complained of.

34. The documents relevant to the first enquiry initiated on the chargesheet dated 11-6-82. Ex. M-2 are to be found at Exs. M-1 to M-13. Ex. M-1 is the order appointing MW-1 or the Enquiry Officer. Ex. M-2 is the chargesheet. Ex. M-3 is the explanation given by him. Ex. M-4 is the list of witnesses and documents supplied to him. Ex. M-5, additional list of documents and witnesses, Exs. M-6 to M-8 show that he had inspected the original documents. Ex. M-9 is the first oral statement. Ex. M-10 is the evidence recorded by the Enquiry Officer from pages 91 to 154. Ex. M-11 is the order sheet maintained by him. Ex. M-12 is the bunch of documents marked for the management, at pages 155 to 238. Ex. M-12(a) is another series of documents of another branch from pages 1 to 37. Ex. M-13 is the bunch of miscellaneous papers from pages 239 to 314. In the claim statement itself, it is admitted that chargesheet dated 11-6-1982 was issued to him as per Ex. M-2.

35. In Ex. M-3, the explanation given by the workman on page 3, it has been admitted that in the year 1974, the bank had invited public in general to open savings bank account in order to raise more deposits and as instructed by the Accountant, a challan and application form for opening S.B. account were prepared by him, that he does not know who had obtained the signatures of Kamalamma and that he handed over the same to the Accountant. There is no allegation against K. R. K. Setty or S. V. Ramanaiah. In Ex. M-3 as regards the first head of the charge. As regards the second head of the charge he states that he had not credited the amounts to the account of Kamalamma by preparing a challan dated 9-11-1977. As regards the third charge, he states that he used to prepare the internal debit and credit slips with the knowledge of the accountant. He, however, admits that he had prepared both the challans, internal slips as per the directions of the Accountant. He further states that he is the member of the subordinate staff and since he was under the fear of being transferred to some other place, he obeyed and acted as per the wishes of the accountant. As regards the fourth charge, he states that falsification of accounts raising of internal slips, debit and credit notes, transfer of accounts to the various accounts were all within the knowledge of the Accountant and the Manager. As regards the 5th charge, he states that the Accountant suggested to him to credit a sum of Rs. 600 and therefore he credited the same. In relation to the 6th charge, he has put forth a case that he had not acted alone or misappropriated the accounts but that the Accountant had misused the funds and except for preparing internal slips like debit and credit slips or withdrawal slips, he is not aware of any other matter. As regards the 7th charge, he states that he discharged his duties under the clear instruction of his superior officers and he has not misappropriated any amount. There is no specific allegation as such that he was labouring under the threat of transfer to some other place at the hands

of K. R. K. Setty and S. V. Ramanaiah and in order to facilitate the misappropriation by them, he had done certain things.

36. The report of the Enquiry Officer is at Ex. M-14 from 315 to 413. But discussion as regards the first head of the charge starts from page 335. The evidence of CW-5 Amala CW-6 S. Ranga Rao, CW-8 Subaiah, CW-9 T. S. Ramachandra, CW-10 G. R. Sudhakara Gupta, CW-11 S. V. Ramanaiah has been examined with reference to the documents such as debit slips, cheques, credit slips, challans. There is no discussion in the written arguments as to which part of the evidence disclosed by the Enquiry Officer in the report Ex. M-14 was not admissible or whether the paid oral and documentary evidence was insufficient for any person to arrive at a conclusion that the I party is guilty of the charges levelled against him. On going through the discussion made by the Enquiry Officer in Ex. M-14 on all the charges, it would be obvious that he has taken into account the relevant evidence and then arrived at the said conclusions.

37. As regard the enquiry proceedings of the second enquiry, commenced on the chargesheet. Ex. M-16 dated 31-3-83, the management has relied upon the following documents :

Ex. M-15—The order of appointment of the Enquiry Officer.

Ex. M-16—Chargesheet dated 31-10-83.

Ex. M-17—His explanation.

Ex. M-18—List of documents and witnesses given to him.

Ex. M-19—His report for having inspected the documents.

Ex. M-20—Additional list of documents.

Ex. M-21—Further list of documents.

Ex. M-22—His first oral statement.

Ex. M-23—The order passed by the Enquiry Officer that he may approach the management for permission to engage a lawyer.

Ex. M-24—The evidence of witnesses recorded by the Enquiry Officer.

Ex. M-25—The order sheet maintained by the Enquiry Officer.

Ex. M-26—Bunch of documents marked by the Enquiry Officer from pages 163 to 251.

Ex. M-26(a)—Another Bunch of documents from pages 1 to 39.

Ex. M-27—Miscellaneous papers

Ex. M-28—Report of the Enquiry Officer from pages 285 to 396.

38. In the second enquiry, 7 witnesses were examined for the management and 73 documents were marked as Exs. C-1 to C-73.

39. The first charge against him was he falsified the S.B. account 5212 of his minor daughter Bharathi Devi by making false credit and raised the balance from Rs. 15.10 P. to 2015.10 P. It is further alleged that he withdrew a sum of Rs. 600 on 6-9-1979, falsified the accounts and misappropriated the same. The other charges also deal with falsification of accounts, fabrication of documents and misappropriation of various amounts. The Enquiry Officer has discussed the evidence of all the 7 witnesses with reference to the 73 documents produced by the management. He has arrived at the respective findings as shown in Ex. M-28.

40. On going through the records of both the proceedings, it is difficult to accept the contention of the learned counsel for the I party that the findings are based on no evidence or on evidence which was inadmissible.



41. The chief bone of contention of the first party appears to be that the management had appointed a retired Deputy Superintendent of Police as the Enquiry Officer and because he was formerly in the Police Department, it follows that he was biased and that he was not competent to act as an Enquiry Officer. The I party bank has stated in the counter statement itself that he was working in the legal department of the office of the Director General of Police and after his retirement on 11-3-69, he was a Special Legal Officer and thereafter he had worked as a Director of Enquiries in the Karnataka Electricity Board and since he had experience in conducting domestic enquiries, he was appointed by the II party bank as a special officer on special grade. There is no basis for the premise that if a person had worked in a Police Department, he stands biased for the entire rest of the period of his life after his retirement and that he will be incompetent to hold domestic enquiries. Nothing has been placed on record by the I party to dispute that he had worked in the legal department of the office of the Director General of Police and after retirement, he was appointed as the Director of Enquiries in the K.E.B. and he has experience in conducting domestic enquiries. Whether an Enquiry Officer is biased or not can better be demonstrated by the manner in which he has conducted the proceedings and without co-operating and participating in the enquiries and deliberately walking out of the enquiries, the workman has proceeded to stamp him as a biased Enquiry Officer. Reasons assigned for not participating in the enquiry conducted by such an Enquiry Officer are not at all convincing. The contention that because he was a retired police officer, he was biased and not competent to hold the enquiry has been already rejected and it is reiterated that there is no force in the said contention.

42. In Para 2.3 of the written arguments, it has been contended that on page 50 of the first enquiry report the Enquiry Officer has observed that CW-11 S. V. Ramanaiah had secured Smt. Kamalamma and he learnt that the I party had obtained her signature for opening her S.B. account on a sum of Rs. 5 and that she had not received any pass book, cheque book or challan. It is an admitted fact that Kamalamma has not been examined before the Enquiry Officer. Her letter, Ex. C-65 at page 231 has been got marked through the Investigating Officer CW-8 Subbaiah and CW-11 S. V. Ramanaiah. On page 19 of the evidence of CW-8 Subbaiah, it appears that he had contacted the said Kamalamma and she gave detailed statements dated 29-10-80 and 2-5-81, as per Exs. C-64 and C-65, that she affixed her signatures in his presence. The evidence of CW-8, thus proves the statements Exs. C-64 and C-65. CW-11 has stated on page 3 of his evidence that he was present, when she gave the said letter dated 2-5-81. Ex. C-65 and she has put her signature at Ex. C-65(a) in his presence. Thus, it has been demonstrated by the II party that though Kamalamma was not examined, her statement Ex. C-65 had been duly proved by the evidence of CW-8 Subbaiah and CW-11 S. V. Ramanaiah. Secondly, there is no denial on the part of the workman that he had filled the relevant forms and given the same to the then Accountant, Sudhakara Gupta. The said fact that account opening form along with the challan Ex. C-66 were given by the I party to Sudhakara Gupta has been proved by the evidence of CW-10 Sudhakara Gupta himself. CW-10 has stated that the I party had affixed his signature in his presence and the form is in his handwriting. He has further proved that after the initial deposit, the I party had opened the S.B. account as per the ledger account entered at Ex. C-24. CW-10 Sudhakara Gupta has further stated that Ex. C-67 in the challan for the credit of Rs. 5 and C-67(a) is the initials of the I party. The contentions raised in Para II.3 of the written arguments by the I party are thus not sustainable.

43. In para 2.4 of the written arguments, it has been stated that the Manager of the bank has been examined in the first enquiry, whereas he has not been examined in the second enquiry and thus, it is manifest that the Enquiry Officer was not independent and that he was biased. In both the enquiries, the management had appointed the presenting officer and how best the case of the management could be put forth was at the hands of the Presenting Officer. The Enquiry Officer had only to record the evidence of the witnesses who had been tendered by the Presenting Officer. For the reason that the Presenting Officer has not examined the manager of the bank in the second enquiry, no aspersion

can be cast as regards the conduct of the enquiry by the Enquiry Officer.

44. The learned counsel for the I party has cited the case of South Kujama Colliery Vs. Central Government Industrial Tribunal, Dhanbad (1967 II L.L.J. Patna Page 193), in order to support his contention that because the management did not issue the chargesheet or held the enquiry against the accountant K. R. K. Setty or the Manager S. V. Ramanaiah, the order of dismissal against the workman cannot be sustained. The facts of the reported case would disclose that some workmen charged with the misconduct of sleeping while on duty had been let off with a bare warning whereas the concerned workman had been dismissed from service. In that context, the Tribunal had held, that the punishment of dismissal was excessive and discriminatory. The Hon'ble High Court of Patna dismissed the Writ petition on the ground that the exercise of the discretion by the Tribunal was proper. Merely because the I party workman had made some allegation against the Accountant and the Manager in his reply to the chargesheets issued to him, it does not follow that the management ought to have issued chargesheet against them without examining the merits or demerits of the allegations made by the workman. Nothing prevented the workman from participating in the enquiry and pointing it out to the Enquiry Officer that the said Accountant and the Branch Manager were the persons mainly concerned with the alleged acts of fabrication of documents, falsification of accounts and misappropriation. I do not find that there is any obligation on the part of the management to issue chargesheets or hold enquiries against the said Accountant and the Branch Manager, when the management did not find them guilty of any act of misconduct.

45. In Para II.5 of the written arguments, it has been stated by the I party that after about 20 months of the issue of the first chargesheet, the management issued the II chargesheet and that it was on account of manipulation. It has been further contended that the Accountant is the son of Bri Heda Rangakrishna Setty, a member of the Board of Directors, and thus there is likelihood of fabrication of charges and manipulation of things, in order to victimise him. Merely because the Accountant is a son of one of the members of the Board of Directors, it does not follow that the management had tried to shield him. No facts have been pointed out from the enquiry proceedings to draw an inference that the Accountant and the manager were themselves guilty of falsification of accounts and misappropriation. It has been then contended that the Enquiry Officer has not stated about the exact account of misappropriation, whereas the order of dismissal shows that he has misappropriated a sum of Rs. 18,439.85 P. In both the enquiries, the Enquiry Officer has given specific findings as to which of the charges have been proved, which have been partly proved and which have not been proved. Based on the findings of the Enquiry Officer, the management has taken action to dismiss him. The report at Ex. M-4 regarding the first enquiry shows on page 413 that all the seven charges of the first chargesheet had been established against him. The enquiry report of the second enquiry at Ex. M-28 on page 395 shows the findings of the Enquiry Officer on each head of the charge. The Enquiry Officer has stated that on charge Nos. 1, 2, 4, 5, 7 and 8 the management has succeeded whereas in regard to charge No. 3 he has stated that the case has been proved to the extent of a sum of Rs. 5,920 only, whereas as regards charge No. 6, the management has failed to establish the same. On going through the enquiry proceedings and reports in both the cases, it is difficult to hold that the management has manipulated and thereafter the second chargesheet has been issued.

46. In para 2.6 of the written arguments, it has been contended that in the enquiry, no auditor has been examined, that the star witness Kamalamma has not been examined, that the enquiry proceedings are ex-parte, that he was not given reasonable opportunity as per Clause 19.12 (a)(iii) of the Bipartite Settlement, the Manager has not been examined in the second enquiry and that no report of the auditor was produced. As observed earlier, it is the responsibility of the presenting officer to make up his mind as to whom he should examine for the management and which are the documents that should be produced in order to prove the case of the management. If the Presenting Officer has

not examined any auditor and has not produced any report of the auditor, nothing prevents the I party workman to derive advantage of the same and demonstrate that the charges have not been established in the absence of such evidence, regarding the non-examination of Kamalamma, there is sufficient explanation from the management that in spite of the best efforts, she could not be traced and the management has thereafter proceeded to prove the document given by her as per Ex. C-65. Regarding the contention that the proceedings are ex-parte and that opportunity has not been given as per clause 19.12 (a)(iii), it has been already observed that the workman has himself to blame, because he did not avail of the opportunities given by the Enquiry Officer to engage a representative to assist him, but insisted upon engaging a lawyer and he himself walked out from both the enquiries. The contention raised.

47. In Para 2.7 and 2.8 of the written arguments, it has been contended that the Enquiry Officer was not an independent person, being a retired Police Officer, that he has followed the criminal court procedure, that he has proceeded with a criminal mind and that the enquiries are not valid. All these submissions do not have any reasonable basis. As observed earlier, it is fallacious to say because a person has retired from police department, he cannot and should not be considered as a fit person to hold domestic enquiries. Secondly, because he has marked the witnesses as CW-1, CW-2 etc., there is nothing to suggest that he has thereby treated them as crime witnesses No. 1, Crime witnesses No. 2 etc. The contentions do not hold water.

48. In para 2.9 of the written arguments, it has been stated that in conducting the enquiries, the Enquiry Officer has not followed the principles of natural justice. The principles of natural justice require that the Enquiry Officer should see that the workman is given opportunity to adduce all the relevant evidence on which he relies, that the evidence of the management is taken in his presence, that he is given an opportunity to cross-examine the witnesses examined by the management and that no material is relied against him, without his being given an opportunity of explaining the same. In the two enquiries conducted by MW-1, he has followed all the above said procedure. The learned counsel for the I party has placed before me the case of State of Madhya Pradesh Vs. Chintaman Sadashiva Waishampayan (A.I.R. 1961 S.C. Page 1623). The authority states that reasonable opportunity to defend consists of giving the workman an opportunity to cross-examine the witnesses who have given evidence and to give copies of documents to him. There is no grievance from the I party workmen made out before the Enquiry Officer or to the management in any letter that he required certain documents, but the management with an ulterior motive held them back. The learned counsel further relied upon the case of Udayanath Sahu Vs. Zilla Parishad, Puri (by Chairman) and others (1967 II L.L.J. page 572). The rule enunciated in the authority is that if the principles of natural justice are not complied with in the enquiry, it cannot be held to be valid. In the two enquiries conducted by MW-1, he has given opportunity to the I party to have assistance as per the Bipartite Settlement and then to cross-examine the witnesses but the workman himself walked out and did not avail of the opportunity given to him. In that context, the authorities do not help him.

49. The learned counsel for the I party has produced the authority of Dr. K. Subba Rao Vs. State of Hyderabad (AIR 1957 Andh. Pre. Page 414). The facts of the reported case would show that the public servant was not given opportunity to establish his case of mala fide and that every genuine attempt made by him was thwarted by the Enquiry Officer. The learned counsel for the I party has further cited the case of Golam Mohiuddin Vs. State of West Bengal and others (1964 I L.L.J. Calcutta Page 462). The facts of the reported case would show that the Enquiry Officer had drawn inference without there being evidence on record to that effect. In that context, it has been held that the findings of the Enquiry Officer were not correct. The learned counsel for the I party has then cited the case of Delhi Cloth and General Mills Co. Ltd. Vs. Thejvir Singh (1972 I L.L.J. S.C. page 201). The facts of the reported case show that the Enquiry Officer had stated that the representative of the workman was one Buburam Mishra working in third shift and that he was easily available but it was found

that the workman had never mentioned the name of any such person for representing him. In view of the said facts of the case, it has been held in the authority that enquiry conducted by the Enquiry Officer was unfair. The learned counsel for the I party has been placed reliance on the case of Ramanujam Vs. Life Insurance Corporation of India (1968 II L.L.J. Madras page 299). In the body of the judgement, it is to be found that the dismissed officer was not given sufficient opportunity to cross-examine a witness, but the Enquiry Officer had placed reliance on the evidence of the said witness. It was further found that the said statement was given after the enquiry was completed. Since the workman had no opportunity to cross-examine the witness, it has been laid down that there was violation of the principles of natural justice. The learned counsel for the I party has been referred to the case of Musali Guptan Vs. State of Kerala (1964 I L.L.J. Kerala page 588). The authority has laid down a principle that an important question of administrative law is whether the other side had been given an opportunity of hearing or not. It is reiterated that in the two enquiries held by MW-1, the Enquiry Officer had given sufficient opportunity to the I party workman to have a representation on his behalf and to cross-examine the witnesses to put forth his own evidence and argue his case. The workman himself turned down the opportunities given to him. The learned counsel for the I party has further referred to the case of Port Trust, Bombay Vs. Its Employees (54 I L.L.J. Page 192). It has been stated in the authority that principles of natural justice mean that principle of fair play, so that the workman should be given a chance for his defence and explanation. In the context of the facts of the said case, it has had that the employee had requested for the copies of the evidence recorded during the first enquiry and since they were not given, it was held that he was prejudiced.

50. The principles laid down in the aforesaid authorities are not attracted, for the reason that in the two enquiries at hand, the Enquiry Officer had given him all the reasonable opportunity to defend himself, but the workman did not avail of the same.

51. Dealing with the point of perversity of findings and on the point has this Tribunal can interfere in the matter under Section 11-A of the I. D. Act, the learned counsel for the I party referred to certain authorities.

52. The authority of Manak Lal Vs. Dr. Prem Chand Singhvi (A.I.R. 1957 Supreme Court Page 425) has been referred to by the I party to show that if the person acting as the judge has any pecuniary interest in the matter, he cannot be a competent person to hold the proceedings. The facts of the reported case would show that if the member of the judicial Tribunal has any pecuniary interest in the matter, the litigant could reasonably apprehend that the member was biased and under such circumstances, actual bias need not be shown. The allegation against MW-1 R. S. Narsimhamurthy, the Enquiry Officer is that formerly he was working as a Deputy Superintendent of Police and now he has been appointed as a special Officer in a special grade. If the management has appointed a person as a Special Officer on Special Grade entrusting to him the duties of holding domestic enquiries, having regard to his experience in the field, it cannot be said that the Enquiry Officer has any pecuniary interest in the matter. The principle laid down in the authority in a different context has no bearing. Merely, because a person has been appointed on a special grade as a Special Officer and has been entrusted with the work of holding domestic enquiries, no inference can be drawn that he is biased and it should be presumed that he will give verdict always in favour of the management. It is a well established principle of law by now that any officer of the employer who is otherwise competent, can hold the enquiry against an employee. If the reasoning advanced by the learned counsel for the I party is accepted, the domestic enquiries will be required to be conducted only by an outsider. The contention is not sound and it has been accepted by various courts that an employee of the management is competent to hold a domestic enquiry. The learned counsel for the I party then cited the case of S. Rangarajan Vs. Sriram Janapaka Bank Ltd. the facts of the reported case would show that some of the Directors



of the Board of management had given statements earlier in support of the charges and subsequently the domestic enquiry had been held by the Tribunal consisting of Board of Directors and in that context, it has been held that no Tribunal can be a judge for its own cause. In the case at hand, there is no allegation that MW-1 has any other interest in the management besides that he is appointed as a Special Officer and he has been conducting enquiries against the employees. It is not the case of the I party that MW-1 was a witness for any act of misconduct of the I party. The principles laid down in the authority have no bearing.

52. The learned counsel for the I party has contended in para 2.10 of the written arguments that in regard to the validity of the domestic enquiry, the II party has placed reliance on the case of Saren Vs. Cochin Refineries Limited (1984 F.J.R. Page 399). But the authority supports his contention that the Enquiry Officer should be his independent person. The matter has been already dealt with in the order dated 1-8-1988. The reasoning shown by the learned counsel for the I party therein is that MW-1 was not an independent authority, but he was a police officer. I cannot but reiterate that merely because a person was a police officer at one point of time, he does not carry stigma that he will not act as an impartial or independent authority in domestic enquiries.

53. In para III (1) of the written arguments, the learned counsel for the I party has stated that because the I party was threatened that he would be transferred, he acted according to the instructions of K. R. K. Setty and S. V. Ramanaiah. No where in the written arguments, it has been contended that the Vysya Bank Manual of Instructions does not contain the said instructions in para 1.56 of Chapter 1 as reproduced on page 4 of the counter statement. The contention that under the threat of transfer the I party workmen committed of certain acts of misconduct as per the instructions of K. R. K. Setty and S. V. Ramanaiah, supposing to be true will not absolve him from the liability. There is no law or rule or practice which can protect a workman working in the lower grades to justify any illegal act on the footing that he acted as per the instructions of the superior officer. There is no obligation for any employee of the bank that he should obey illegal orders of his superior. In addition, there is a specific provision in the Vysaya Bank Manual of Instructions itself that an employee is directly responsible to the Administrative Officer and that it is his duty to inform the administrative officer, if he comes across any irregular or like act of the superior officer. In fact the contention raised in Para 3.1 of the written argument constitutes an additional admission that the I party has with all eyes open, committed the alleged acts of misconduct.

54. In para III (2) of the written arguments, it has been contended that the I party did not receive any money and the Accountant had received the money from the cashier directly. There is no evidence on record to support the contention that the I party workman manipulated or falsified the accounts, but a crop was reaped by the Accountant and the manager.

55. The contention raised in para III (3) is repetitive of what has been stated earlier that the management ought to have issued chargesheets and held enquiries against the Accountant and the Manager. The contention is devoid of any merit. In Para IV of the written arguments, it has been alleged by the I party that the alleged acts have been committed between October 1977 and November 1980 and in that event, there is no explanation why the said things did not come to light in the weekly, monthly, half-yearly and yearly account verifications or audits. It has been then contended that there is no explanation as to why the management alleged the workman to continue in his acts of manipulation, falsification and misappropriation. It has been then contended that when the management came to know that the Accountant and Manager were the concerned persons, but it colluded with them and hatched up a plan to involve the I party as a scape-goat. Here submission or argument, with whatever vehemence it may, will not help unless evidence from the record is pointed out in support of the same. Simply, because the Accountant happens to be a son of a Director of the Board of Directors, no inference emerges that the entire management has colluded with the said

accountant and manager. It has been then contended that if it was a genuine case nothing prevented the management from filing a complaint with the police and the very fact that no complaint has been filed indicates that the I party has not committed any act of misconduct. The I party workman had all the liberty and opportunity to participate in the enquiries, to bring on record the relevant facts which, according to him, would lead of an inference that the management had colluded with the said officers and establish that he has been made a scape-goat. No provision of the Bipartite Settlement or any other rule or law has been pointed out to show that in the first place the management is bound to file a police complaint, whenever it comes across the case of an employee committing falsification of accounts and misappropriation. In my view the management, the employer, has the right to manage the work of his institution in the best possible manner it thinks fit. There can be no rule that the management should in the first place approach the police whenever it comes across the case of falsification of accounts and misappropriation. The management is concerned with the good conduct of its employee and if it proceeds to protect its own interest by instituting disciplinary proceedings, I am of the view that no motive can be attributed.

56. In para 5 of the written arguments, the I party workman has then contended that after the order of suspension, the Manager Venkataramanaiah had gone to the house of the workman when he was ill and obtained one letter promising that no harm will be caused to him and believing in the said representations the workman gave a letter. The said document was called for. On 2-11-88, the II party has filed a xerox copy of the same and it has been stated that the original letter was not traced. The management has not relied upon the said document before the Enquiry Officer and if the I party workman intended to show that the said document was obtained from him on misrepresentation, nothing prevented him from calling for the same before the Enquiry Officer and cross-examining the said Accountant and the Manager with reference to the said document. When the manager, against whom the allegation is made that S. V. Ramanaiah has obtained this letter by misrepresentation has no opportunity to explain as to how and under what circumstances it was obtained, no inference can be drawn only on the basis of the contents of the letter. Supposing for a while for the purpose of discussion that the Manager had made some promises to the workman and had obtained the said letter, it cannot be pressed into service for criticising the management that it was biased against the workman or that it has tried to shield the said Manager when the management itself has not chosen to press the document into service for proving his guilt.

57. In para 6 of the written arguments, it has been stated that the charges of the two chargesheets are overlapping and that the subsequent charge is only a manipulation. No submission has been made with specific reference to the contents of both the charges or with the evidence adduced in both the proceedings. In the absence of specific submission, I do not find that there is any force in the said contention.

58. In para VII of the written arguments, it has been argued that the workman was forced to dance according to the tune of the said two officers and that he has acted not for his personal gain but has done so to serve those two officers and to allow them to misuse. These submission go to constitute an admission on the part of the workman that he has committed these acts of misconduct, but it was only as per the directions and for the benefit of the Accountant and the Manager. I cannot but reiterate that no employee can plead that his actions should be protected, though they amount to acts of misconduct, merely for the reason that he has obeyed the orders of his superiors.

59. The charges of the second enquiry show that the debit entries have been effected by the I party workman and there are false credit entries to the account of Kamalamma. The evidence of CW-1 Venkatachallaiah Setty in the second enquiry shows that S.B. account No. 5212 was opened on 16-9-74 with an initial deposit of Rs. 5 in the name of the minor daughter of the I party by name S. N. Bharathi Devi

and by various false credits, the balance was raised to Rs. 1,520. The evidence further shows that withdrawal slips were sent to him in the name of Bharathi Devi and that the I party has signed in the withdrawal slip Ex. C-3A. He has specifically stated that when the token number was called, the I party employee rendered the token and he received the cash of Rs. 600. The contentions raised in the written arguments at Para 8 are not borne out by the record.

60. The contentions raised in para VIII (2) of the written arguments again deal with the letter dated 20-9-80 obtained by the Manager. The said part of the contention has been already rejected.

61. In para VIII (3) of the arguments, it has been stated that the Inspecting Officer S. V. Ramanajah had not made any comment and subsequently, he became the manager and thus he was aware of the falsification of accounts and misappropriation. In my view, the workmen should have participated in the enquiries and should have brought to light the said allegations.

62. The contentions raised in para VIII (4) of the written arguments are not borne out by the record. The witnesses have specifically stated as to in what manner the workman had falsified the accounts and how unsupported entries have been made to the credit of Kamalamma and Bharathi Devi.

63. The contentions raised in Para VIII (5) of the written arguments are nothing but repetition of what has been earlier stated.

64. In para 9 of the written arguments, it has been again repeated that opportunity was not given to him as shown in clause 19.12 (a)(iii). The said contention has been already dealt with in the order dated 1-8-88. In para 10 of the arguments, it has been stated that the findings of the Enquiry Officer are perverse. On going through the enquiry proceedings and the findings of the Enquiry Officer, it cannot be said that no reasonable person could have arrived at the findings complained of on the basis of the material placed before him. Much of the written arguments is mere rhetoric than substantive submissions with reference to material produced before the Enquiry Officer. In the subsequent paras of the written arguments, there is only repetition of to what has been stated and finally it has been urged that the punishment of dismissal is highly disproportionate and this Tribunal may interfere in the order under Section II-A of the I. D. Act. In support of the said contention, the learned counsel for the I party has cited the following cases :

- (1) 1976 (II) I.L.J.—Madras—Page 257
- (2) 1978 (I) I.L.J.—Kerala—Page 269
- (3) 1986 Lab I.C.—Calcutta—Page 1269
- (4) 1986 Lab. I.C.—Gujarat—Page 938

In the aforesaid authority of Madurai-Devakottai Transport Private Limited Vs. Labour Court, Madurai, the court did not try the issue of fairness of the domestic enquiry and it was therefore held that the procedure followed by the court was not correct.

65. In the second case of Laxmi Starch Ltd. Kundara Vs. P. C. Alexander, it has been held that a workman accepting the findings of the domestic enquiry can let in evidence before the Tribunal as regards the punishment.

66. In the third case of the Union of India Vs. Industrial Tribunal, it has been laid down that if the Tribunal holds that the termination is unjustified, it has jurisdiction to award back wages.

67. In the fourth case of Chhotalal Vithaldas Kotecha Vs. Halar Salt and Chemical Works, it has been held that for the misconduct of uttering abuses to the Manager, the extreme punishment of dismissal was disproportionate. In the case at hand, it has been established by the management that the workman is guilty of falsification of accounts and misappropriation of the funds of the bank. It has been further shown that his contention that he has acted at

the behest of the Accountant and Manager and has committed these acts for their benefit is far from truth. The II party is a banking institution and there can be no two opinions that highest degree of honesty and integrity is expected of its employees. Since it has been proved that the I party workman is guilty of the misconduct of falsification of accounts and misappropriation, I find that it is not a fit case to invoke the provisions of Section 11-A of the I. D. Act. In my view, the management was justified in dismissing him from service.

68. In the result, an award is passed to the effect that the management of Vysava Bank Limited, Bangalore was justified in dismissing from services Shri B. V. Nagarajachar, Clerk with effect from 7-8-1985 and he is not entitled to any relief.

B. N. LALGE, Presiding Officer

[No. I-12012/75/87-D.IV (A) IR (Bank-I)]

का. आ. 3017—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसूचन में केन्द्रीय सरकार बरेली कारपोरेशन बैंक लिमिटेड, बरेली के प्रबन्धन के संरक्षित नियंत्रकों और उनके कर्मचारियों के बीच, अनुसूचन में निर्दिष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण, कानपुर के पंचाट की प्रकाशित करती है।

S.O. 3017.—In pursuance of section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the annexure, in the industrial dispute between the employers in relation to the management of Bareilly Corporation Bank Ltd. and their workman.

BEFORE SHRI ARIAN DEV, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,  
KANPUR

Industrial Dispute No. 105 of 1987

In the matter of dispute between :

The President, U.P. Bank Employees Congress, Unit  
Bareilly 364, Sahukara Laxmi Narain Road,  
Bareilly-243003.

AND

The General Manager, Bareilly Corporation Bank Ltd.  
(Central Office) 129-D, Civil Lines, Bareilly.

AWARD

1. The Central Government, Ministry of Labour, vide its notification No. I-12012/123/86-D.IV(A), dated 18-8-87 has referred the following dispute for adjudication to this Tribunal :

Whether the action of the management of Bareilly Corporation Bank Ltd., in not considering the case of Shri B. S. Mehrotra, Clerk, in the Second list of options circulated vide circular no. 113 dated 19-9-84, for the post of special assistants and considering the clerks junior to him, is justified? If not, to what relief the concerned workman is entitled?

2. The industrial dispute on behalf of workman Shri B. Mehrotra, has been raised by the President, U.P. Bank Employees Congress Unit Bareilly (hereinafter referred to as Union).

3. The admitted facts are that the management issued circular letter no. 65 dated 6-6-84, with a list of 31 members of clerical staff for appointment as special assistants in a number of branches mentioned in the circular. In the list of names, the name of the workman appeared at serial

no. 22. Subsequently, the management issued another circular letter no. 113 dated 19-9-84, with a list of 45 members of clerical staff for appointment as special assistants in branches mentioned in the circular letter. In the list the names of 35 clerks named in the earlier circular letter were not included. Then after a period of a little over two years, the management issued another circular letter no. 198 dated 10-9-86. In the list of names of clerks given in the circular, the name of the workman appeared at serial no. 11. In pursuance of this circular letter the workman gave a choice of stations and was posted as special assistant in the banks branch at Roza on 13-1-1987.

4. The case of the Union is that the list of names given in circular letter no. 113 dated 19-9-84, was defective inasmuch as the said list did not contain the name of the workman. The workman, therefore, moved an application before the Manager Punjabi Market Branch, Bareilly, registering his objection, but the manager, declined to accept his application on the ground that his name was not included in the list. According to the Union as per existing promotion policy the workman could not have been debarred from making an application for his appointment as special assistant. The bank can debar only such employees as apply for their postings as special assistants by indicating their choice of stations and on posting at one of the places of their choice they do not join within a stipulated period, and that too for a period of 12 months. Since the workman never applied for the post of special assistant, he could not have been debarred by excluding his name in the list of those given in the circular letter no. 113 dated 19-9-84. Thus ignoring his right the management promoted on 3-10-85, one Shri Ganesh Prasad Seth as special assistant who is much junior to the workman in the Semi Khara Branch, of the bank. This was done because Shri Ganesh Prasad Seth happened to be a member and the office bearer of the recognised Union. The Union has, therefore, prayed that the management be directed to pay special allowance w.e.f. 3-10-85 to the workman and transfer him at Semi Khara Branch or any other branch at Bareilly.

5. The management plead that the bank had formulated a policy to fill up vacancies for assigning special assistant duties. The policy is based on an understanding with the registered majority Union of the Bank. According to the said policy the quota of special assistants will be 13 percent of the clerical strength and this ratio of vacancies is to be based on the strength as in the preceding year on 31st December, and the vacancies are to be filled up by 30th June, the following year. The policy further provides that the vacancies would be notified by the bank to the senior most employees, who will indicate their choice of postings other than the places where they are working. Since all the vacancies notified by circular no. 65 dated 6-6-84 could not be filled up and since all those whose names appeared in the said circular did not submit their applications for consideration, the bank on account of administrative requirement issued the second circular letter no. 113 dated 19-9-84 including applications to fill up the unfilled vacancies and some other vacancies which had occurred by then. Since the workman in pursuance of the first circular letter did not submit any application, the question of considering his candidature on the second occasion for appointment as special assistant did not arise. It is sufficient for the bank to declare the name once which the bank did in the instant case by naming the workman in the first circular letter. It was mandatory on the bank to invite workman's application afresh. Thereafter, the bank finalised the posts of special assistants and it could be that some of them who might have been junior to the workman and who might have applied for appointments as special assistants were so appointed.

6. The management have also raised some legal pleas. According to them the present dispute is not an industrial dispute. The industrial dispute has not been raised by competent Union on behalf of the workman. The Union is not competent to raise industrial dispute on his behalf as it is neither registered nor recognised by the bank. There had been no resolution of the Union to espouse the cause

of the workman who is not a proper and legal member of the Union. It was, therefore, an individual dispute which the workman should have raised himself.

7. In the rejoinder, the Union has refuted the pleas of the management that it was not competent to raise the industrial dispute on behalf of the workman or there did not exist any dispute between the management and the Union. The other facts stated are mere reiteration of the facts stated in the claim statement.

8. In support of its case, the Union has filed the affidavit of workman and a few documents. On the other hand, the management have filed the affidavit of Shri R. R. Rathi, Manager Personnel and a number of documents in support of their case.

9. Annexure 1, to the affidavit of the management witness is the copy of circular letter no. 65 dated 6-6-84. By means of this circular letter, applications were invited in the proforma given from 35 senior members of clerical staff including the workman for posting as special assistants at 24 places mentioned giving their choice of stations by 25th June, 1984. It was specifically stated that the promotions would be strictly on seniority cum education basis. The mode of giving of marks was also given.

10. Annexure 2, to the affidavit of the management witness, is the copy of circular letter no. 113 dated 19-9-84, by means of which applications were invited in that very proforma from 45 members of clerical staff other than those named in the previous circular letter for posting as special assistants at 15 stations mentioned giving their choice of stations by 8th October, 1984. Out of these 15 stations, 11 were those mentioned in the earlier circular letter. New stations were—Bilaspur, Rudrapur, Semikhera and Varanasi. The rest of the language of the two circular letters is the same.

11. Annexure 3, to the affidavit of the management witness is the copy of next circular letter no. 198 dated 10-11-86, by means of which applications were invited in that very proforma from 15 members of clerical staff for posting as special assistants at 4 stations. In this circular, the name of the workman appeared at serial no. 11. From the uncontroverted evidence of the union it appears that the workman applied giving his choice of stations and he joined as special assistant at Roza Branch of the Bank on 13-1-87.

12. The grievance of the Union is that the name of the workman was wrongly left out from the list of members of the clerical staff in the second circular letter dt. 19-9-84. The result was that on the basis of the second circular letter Shri Ganesh Prasad Seth whose name appeared at serial no. 11 and who was much junior to the workman got a chance and was posted as special assistant at Semikhera branch of the Bank on 3-10-85. The Union has corroborated this fact vide para 20 of workman's affidavit. This fact that Shri Seth was junior to the workman also stands proved from the educational qualifications and dates of appointment given in the first two circular letters. Both appeared to be graduate but whereas the date of appointment of the workman is 26-4-66, the date of appointment of Shri Seth is 16-8-69.

13. Let us now see what the promotion policy says with regard to posting as special assistants.

14. Ext. W3, is the copy of promotion policy which was settled between the management and the majority Union on 8-3-83. The Annexure 2 to the promotion policy refers to debaring clause. It is to the effect that where a clerical staff assigned the duty of special assistant and posted at a place indicated by him but does not report within the stipulated time at that place, he shall be debarred for 12 months. It is also stated in the promotion policy that the resultant vacancies of special assistants will be notified amongst the branches to invite applications, from the clerical members of the staff. The employees will indicate their choice of stations other than the place where they are working.

15. In the instant case there is no evidence from the side of the management to show that after the issue of the first circular the workman made any application indicating his choice of stations. During his cross examination, the workman was questioned as to why he did not apply, but we need not refer to his replies given by him. Suffice it to say that he did not apply. The question is whether in such an event the workman could have been debarred as provided in the debarring clause for a period of 12 months? The simple answer will be that he could not have been debarred. He could have been debarred only if he had applied and had indicated his choice of stations and had been directed to report for duty as special assistant at one such station of his choice. I am not convinced with the arguments that since he did not apply, there was no need to include his name in the list of names given in the second circular letter. The second circular letter was a fresh circular. There is nothing to show that it had been issued in continuation of the first circular. Besides, as earlier stated 4 new stations were added in the second circular. Had the management not added any new station, it could have been said for a moment that it was in continuation of the first circular letter and since the stations were the same it was thought by the management that those who did not apply earlier for any of these stations would not apply after so short a while.

16. It has been argued by Shri Bhasin, the authorised representative for the management that if in the second circular letter the name of the workman did not appear he should have taken objection within 7 days of the date of the circular letter giving all relevant details. In every circular letter it is mentioned in the very beginning that it will be displayed at the branches. Therefore, the workman will be deemed to have notice of it.

17. Shri O. P. Nigam, appearing for the Union, has submitted that the workman, as he has deposed in his cross-examination, made an attempt to register his grievance with the branch manager on 26-9-84, but the branch manager did not accept representation.

18. I have considered the evidence and circumstances of the case and find that this part of the evidence of the union is not worthy of credence for drawing this conclusion. I would like to refer to annexure 1 to the affidavit of the workman. It is the copy of letter dt. 9-1-87, from the workman to the General Manager, through proper channel. In it the workman referred to the fact that in the first circular letter Semikhera Branch was not mentioned, so he was interested to take promotion in any of the branches. There is nothing in the letter to show that he ever made an attempt to deliver his representation against the second circular letter to the branch manager on 26-9-84. For the first time this fact was made by his Union in its letter dt. 7-10-85, copy annexure III to the workman's affidavit. Even in this letter the date 26-9-84 has not been mentioned. Therefore, I take it that objection against the second circular letter was taken by the workman for the first time on 9-1-85.

19. In para 23 of his affidavit, the workman has named 5 members of clerical staff who were much senior to him and who according to him are eligible for promotion as special assistants. On this point he was cross-examined at length by Shri Bhasin. In para 6 of his statement in cross examination he has admitted that the names of these 5 persons appeared in the first and third circular letters. He has further stated that their names also appeared in two similar circulars of 1988, one issued in the month of February and the other issued in the month of August. These are Ext. W-1 and Ext. W-2.

20. It may be argued that although it has not been argued on behalf of the management, how in the presence of these 5 persons senior to the workman, the workman could claim a right of posting as special assistant. The answer is very simple. It may be that in pursuance of the circular letters issued earlier they had not applied for their posting as special assistants to any of the branches where vacancies

of special assistant had occurred or if they had applied they did not report for duty at stations of their choice, thereby attracting debarring clause. So to my mind, he workman cannot be ignored on this count.

21. In support of the workman, the Union has claimed 2 reliefs. One is that special assistant allowance should be given to the workman w.e.f. 3-10-85, when Shri Seth was posted as special assistant at Semikhera Branch District Bareilly and the second is that the workman should be transferred to Semikhera Branch or any other branch at Bareilly. To my mind it will not be just and proper to grant the second relief. The workman is already working as special assistant at Roza Branch of the Bank. He must have been posted at Roza Branch on the basis of the choice indicated by him in pursuance of the 3rd circular letter. So we are left with the first relief.

22. The post of special assistant simply attracts a special allowance. The seniority is not affected. We may call it as functional allowance. There is no doubt about the fact that the workman did not make any representation within 7 days of the issue of second circular letter, but all the same it is evident that he made representation much before the posting of Shri Seth as Special Assistant at Semikhera branch. If the workman had made the representation after the posting of Shri Seth it could have been said that there was a contributory lapse on his part and because of that depending on the degree of the lapse either he was entitled to no compensation or simply to notional compensation. The management cannot absolve themselves of the lapse on their part. The second circular being not in continuation of the first circular, an opportunity to the members of the clerical staff named in the first circular letter to indicate their choice of stations in respect of 4 new stations, should have been given. Hence I find the workman entitled to a compensation of Rs. 7485/39 basic as given by him in annexure IV to the claim statement. Out of this amount the bank may retain such amount as is required under rules to be payable by the workman towards Provident fund.

23. From the side of the management some ornamental pleas have been raised such as that the workman is not a member of the Union; that the Union is neither registered nor recognised by the bank; that no resolution was passed by the Union to espouse the cause of the workman but no evidence has been led on it by the management. So I find no force in it.

24. The reference is answered accordingly.

ARTAN DEV, Presiding Officer  
[No. L-12012/123/86-D.IV(A)/IR(Bank-I)]

का. अ. 3018.—औद्योगिक विवाद अधिनियम 1947 (1947 का 14) की धारा 17 के अन्वयेण में, केन्द्रीय सरकार रजिस्ट्रार ऑफ़ इन्डस्ट्रियल ट्रीब्यूनल, नई दिल्ली के प्रवन्धन के संज्ञक निम्नलिखितों और उनके कर्मचारियों के बीच, अर्थात् में निम्नलिखित औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिनियम, नई दिल्ली के अन्वयेण को प्रवृत्त करना है।

S.O. 3018.—In pursuance of Section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, New Delhi as shown in the Annexure, in the industrial dispute between the employers in relation to the management of American Express International Banking Corporation and their workmen.

#### ANNEXURE

BEFORE SHRI G. S. KALRA, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL,  
NEW DELHI

I. D. No. 131/80

In the matter of dispute between :

Shri S. Natrajan formerly employee of American Express  
International Banking Corporation, New Delhi.

Versus

American Express International Banking Corporation New  
Delhi.

## APPEARANCES :

Shri V. N. Kaura—for the Management.

Shri H. K. Pathak—for the Workman.

## AWARD

The Central Government in the Ministry of Labour vide its Order No. L-12012/168/80-D.II (A) dated 28-11-80 has referred the following industrial dispute to this Tribunal for adjudication :

"Whether the action of the management of American Express International Banking Corporation, New Delhi in dismissing Shri S. Natrajan, Teller from service with effect from 18th April, 1979 is justified ? If not, to what relief the workman concerned is entitled ?"

2. The claimant workman joined the service of the respondent Management as Typist on 15-11-1966. He was suspended on 29-4-78 and tried on Accounts of fraudulent transactions and was dismissed from service on 18-4-79 after the charges were found proved against him in a domestic enquiry. The workman challenged his dismissal on various grounds whereas the management justified the dismissal of the workman as legal and valid. This Tribunal vide order dated 30-10-1986 held the domestic enquiry against the workman to be vitiated, being not fair and proper. However, the Management was given opportunity to prove the charges before this Tribunal.

3. The Management examined MW-1 Shri M. S. Subramaniam Senior Control Officer and tendered in evidence documents Ex. M-1 to M-19. The workman stepped into the witness box as WW-1 and tendered in evidence documents Ex. W-1 to W-50. The parties have filed written arguments as well as they have made oral submissions.

4. Before taking up the specific charges, some general observations may be made. First of all, it is to be noted that the 8 fraudulent transactions for which the workman has been charged are admitted to have taken place in the respondent bank. The workman also admits that the transactions 2 to 7 were paid through him. The vouchers pertaining to charges 2 to 8 were also admittedly prepared by the workman, although these were also approved by the concerned officers. At the time of the occurrence of the fraudulent transactions the workman was admittedly posted as a Foreign Exchange Teller. At the time of the said transactions there was an officer by the name of Mr. S. Srinivasan posted as an executive Secretary who submitted confessional letters dated 10-4-78 (W-12) and dated 18-4-78 (Ex. W-13) in which he admitted to have committed all the above 8 frauds in connivance with the workman but having cornered all the amounts himself. The said Mr. S. Srinivasan submitted his resignation which was accepted and no further action was taken against him. From the correspondence exchanged between the Management and its legal adviser M/s. Kaura and Company (see W-14) it is more or less admitted by the Management that it is Srinivasan who was prime mover and beneficiary of the frauds and the workman claimant was a foolish accomplice. The workman also made three confessional statements dated 19-4-1978 (Ex. MW-1/9) dated 19-4-78 (Ex. MW-1/10) and dated 25-4-78 (Ex. MW-1/11). The workman admits that these confessional statements are in his hand and are signed by him but he has alleged that these were obtained under coercion.

Here it may also be examined as to whether the confessional statements Ex. MW-1/9 dated 19-4-78, MW-1/10 dated 19-4-78 and MW-1/11 dated 25-4-78 of the workman are voluntary in nature and can be relied upon. It may straightaway be noted that the workman admits that these statements are in his own hand and are signed by him. He has simply alleged that these statements were obtained from him under coercion. However, he has not been able to explain as to what coercion came to be exercised on him. No doubt it is forthcoming from the correspondence of the legal adviser of the respondent bank M/s. Kasure and Co. that there drafts of two of these confessions were suggested by them but that in itself would not make these confessions voluntary. In fact when these confessional statements of the workman are read with the confessional statements of his accomplice and

prime mover Shri S. V. Srinivasan Ex. W-12 dated 10-4-78 and W-13 dated 18-4-78 on which the workman himself has placed reliance no doubt is left is that the confessional statements made by the workman are voluntary. Here the following statement made by the workman in his cross-examination may be noted :

"My relations with the officers of the bank were also very good and also the colleagues. I hail from Tamil Nadu State. Subramaniam MW-1 also belongs to Tamil Nadu State. S. V. Srinivasan also belong to Tamil Nadu State. I had good relations with Shri Srinivasan and M. S. Subramaniam and other officers and colleagues ....."

"Mr. Subramaniam gave copy of this letter to me because he wanted to help me I do not know what the intention of Subramaniam was in giving copy of the letter Ex. W-10 to me but I took it that he wanted to help me ....."

"Q. Can you tell how the confessional statements which you say have been obtained from you under pressure will help absolve the officers who had approved the transactions.

Ans. I can not explain".

Against these depositions of the workman we have the statement of MW1 M. S. Subramaniam who is a senior officer and admittedly a friend and well wisher of the workman and his evidence should carry more credibility. He has categorically denied that the confessional letters were taken from the workman forcibly and under coercion. He has further stated that the confessional statement MW1/11 was delivered to him at his residence in the early hours when his wife was also present. The confessional letter had already been written when it was brought by the workman and it was not written in his presence. There is no reason why this statement of Sh. Subramaniam should not be delivered. This in itself goes to show that at least the confessional letter Ex. MW1/11 is voluntary and without any element of coercion. Moreover the facts narrated in Ex. MW1/11 relate to an alleged affair of the workman with a woman employee of the respondent bank of which Shri S. V. Srinivasan had the knowledge and the workman has alleged that he came to be black mailed by Shri S. V. Srinivasan for this reason and he became a party to the alleged fraudulent transactions. These facts could be only in the knowledge of the workman himself and not with the Management. Hence I have no hesitation in accepting these confessional statements of the accused as voluntary and to place reliance on the same."

## 5. CHARGE NO 1

"On June 16, 1977 Mr. Natrajan encashed Draft No. 2619015 drawn by the Royal Bank of Canada on the Chase Manhattan Bank, New York for US 86218/70 (which had been crossed and could not be encashed but represented the proceeds of an export collection to be credited to advances), and misappropriated the proceeds."

According to the Management Export Bill No. EC19640 which was discounted by the Bank in the account of Gedore Tools during May, 1977 was shown as outstanding on March 31, 1978. An enquiry indicated that payment of the Bill had been received during June, 1977 by Draft No. A 2619015 dated 2-6-1977, drawn by the Royal Bank of Canada on American Express for S 6228/70. The draft indicated on the face of it that it was in payment of Collection No. EC19640, and accordingly should have been credited to the "Advances" Account by debit to which the Export Bill was discounted. However, although the draft was sent to the New York Office for realisation on June 16, 1977, there was no corresponding credit to the Banks Advance Account. The question arose as to where the money had gone. Ordinarily this would be found by tracing the corresponding credit voucher but in the present case the vouchers for 16-6-77 were not traceable. Mr. S. V. Srinivasan in his letter dated 10-4-78 Ex. W-12 has admitted that these

vouchers were removed by him. The workman in his statement as WW1 has stated that whatever is written in the letter dated 10-4-78 Ex. W-12 is correct. Thus the utilisation of the proceeds of the draft had to be traced from other records available. The following facts stands established from the other records :—

- (i) The day's transaction balanced as was evident from the day's control proof; MW1|3).
- (ii) The Accounting Backing Sheet which contained the Sub-Ledger transactions disclosed that there was no such credit to any Sub-Ledger account i.e. the Banks Accounts; (MW1|6—MW1|7).
- (iii) Nor was there any credit of the amount to any customer's account; and
- (iv) It followed that the amount must have been paid in cash.

The question which arises is by whom was the cash paid. Being a Foreign currency draft it could only have been Foreign Exchange teller. There were only three Foreign Exchange Tellers on duty on June, 16, 1977 namely the workman Shri S. Natrajan, Shri B. N. Arora and Shri M. R. Gogia. It is further case of the Management that each teller keeps copy of the encashment memos covering cash payments made by the Teller against foreign exchange instruments. The Teller's record of payments made by Shri B. N. Arora and Shri M. R. Gogia (MW1|12) on 16-6-1977 does not indicate that either of them had paid cash against this draft. It has been urged on behalf of the Management that for this an inference should be drawn that the cash was paid by the third Teller S. Natrajan. I am inclined to draw this inference because whereas the other foreign exchange Tellers S/Shri B. N. Arora and M. R. Gogia submitted their record of payments for 16-6-77, the workman Shri S. Natrajan has not produced the record of payments for that date. The workman Shri S. Natrajan has also admitted having paid cash against the draft in his confessional letters Ex. MW1|9, MW1|10 and MW1|11. The Management has also annexed the following record in support of these charges.

- (1) The record of bills purchased outstanding on March 31, 1978 (Exhibit MW1|1) which indicates that EC No. 19640 dated May 16, 1977 for S. 6218|70 was outstanding on that date.
- (ii) Royal Bank of Canada's letter of March 3, 1978 with a photocopy of its Draft No. A 2619015 in payment of EC No. 19640 (Exhibit MW1|2).
- (iii) Control (Balancing) Sheet of the New Delhi Branch for June 16, 1977 (Exhibit MW1|3) which shows that the accounts for the day balanced.
- (iv) Back-up Sheet for June 16, 1977 the relevant part of which (Exhibit MW1|4) indicates a total of 12,363.16 to have been debited to New York Account.
- (v) Advice of Remittance sent to New York for collection on June 16, 1977 (Exhibit MW1|5) which indicates that draft No. A 2619015 dated June 2, 1977 issued by the Royal Bank of Canada for S 6218.70 was sent for collection on June 16, 1977.
- (vi) Details of credit to Saving Bank Accounts & Current Accounts (Exhibit MW1|6) and details of credits to Sub-Ledger Accounts (Exhibit MW1|7) on June 16, 1977 which indicates that the sum of S 6218.70 was not credited either to any Customer's account or to any sub-ledger account.
- (vii) Vault Record for June 16, 1977 (Exhibit MW1|8) which shows the attendance of Shri S. Natrajan Shri B. N. Arora and Shri M. R. Gogia on June 16, 1977.

- (viii) Two letters dated April 16, 1977 written by Shri S. Natrajan in hand and addressed to the Manager,

American Express, New Delhi (MW1|9) and MW1|10).

- (ix) Another letter dated April 26, 1978 addressed by Shri S. Natrajan to Shri M. S. Subramaniam (Ext. MW1|11) also written by hand.
- (x) The Teller's copies of Encashment Memo's pertaining to Foreign Exchange Instruments encashed by Shri B. N. Arora and Shri M. R. Gogia on June 16, 1977 have been produced and indicate that neither of them encashed the draft in question.

Now the workman in his letter dated 19-4-77 (Ext. MW1|9) has stated as follows with reference to this transaction :

"Mr. S. Srinivasan came to my place on 15th June 1977 and he told me that he is in some sort of financial difficulties. I told him I have no money with me. Immediately he told me that he has a dollar cheque with him that has to be cashed through my counter ..... I have been the cheque and told him this cheque is in favour(ing) of the American Express A/C Gadore Tools how it is possible to cash the cheque and another thing, if the amount exceeds Rs. 10,000 we have to mention the reason for what purpose the cheque has been cashed (for Reserve Bank Purpose). He explained me what I have to do (i.e. splitting the account for 5 or 6 persons names)..... I told him that I won't put the crossing stamps on the cheque. In fact I insisted him to put his mailing stamp and I told him that if anything goes wrong you are fully responsible for that. He has agreed that he got the approval and he put his mailing stamp. According to the lists which he gave me (i.e. different names and different amounts), I have made the payment to him..... After a month or so he told me that he has removed all the documents related to the above transaction. In fact I did not know when he has removed the documents.... frankly I wish to inform you that I have not helped him on any level for removing the documents from the office. He did everything himself."

Similarly in the letter of same date Ex. MW1|10 the workman has stated as follows :—

"Mr. S. V. Srinivasan is a good friend of mine and has been in financial problems. To help him out I did assist incashing Exchanges and certain other transaction..... I request you to pardon me for these acts and protect my job....."

In his letter dated 25-4-78 Ex. MW1|11 the workman has given a detailed account of the background and circumstances in which Shri S. Srinivasan, another employee of the bank allegedly black mailed and bullied him into assisting him in encashing the draft in question. Mr. M. S. Subramaniam MW1 has stated that prior to working as Foreign Exchange Teller Shri S. Natrajan worked in the bills department of the bank as a head clerk settling bills, and that as settling clerk Shri Natrajan was fully aware of the bills settlement process and was capable of identifying drafts received in settlement of bills. Whenever an instrument in favour of the Bank is received towards settlement of bills through the mail, it is immediately stamped with the Bank's crossing in the Bank's name that it is only payable to the Bank. Thereafter the instrument may be either released for immediate credit by the appropriate authority initialling the instrument or it may be released for collection in due course. If released for immediate credit with the appropriate authority's initials, the proceeds are to be immediately credited either to "Advances" A/c (if the Bank has made an advance against the collection) or to the concerned Customer's account. In no circumstances is the initial a direction to pay cash over the counter against such an instrument drawn and crossed in favour of the Bank. He further stated that the cash payment made across counter against a draft received against settlement of a collection is something unheard of in the history of the bank. There is absolutely no reason to disbelieve this statement of Shri M. S. Subramaniam. The workman has no specific defence



o the charge. In his cross-examination as WW1 he has admitted that a fraud did take place and has merely denied his involvement and has stated that the transaction forming subject matter of this charge was not handled by him. This contention of the workman stands totally refuted by the confessional statements of Shri S. Srinivasan (W-12 and W-13) on which reliance has been placed by the workman himself read with his own confessional statements MW1/9, MW1/10 and MW1/11. In view of the irrefutable evidence discussed above this charge against the workman stands proved.

#### CHARGE NO. 2 to 7 :

2. On January 27, 1978 Mr. Natrajan falsely debited the Calcutta Rupee Account with the sum of Rs. 14,468 for Bombay Cheques allegedly purchased and misappropriated the proceeds, while no such cheques in fact existed.
  3. On January 27, 1978 Mr. Natrajan falsely debited the Bombay Rupee Account with the sum of Rs. 14,468 for Bombay Cheques allegedly purchased, and misappropriated the proceeds, while no such cheques in fact existed.
  4. On February 6, 1977 Mr. Natrajan falsely debited the Calcutta Rupee Account with the sum of Rs. 10,000 for Calcutta Cheques allegedly purchased, and misappropriated the proceeds, while no such cheques in fact existed.
  5. On February 6, 1978 Mr. Natrajan falsely debited the Bombay Rupee Account with the sum of Rs. 18,000 for Bombay Cheques allegedly purchased, and misappropriated the proceeds, while no such cheques in fact existed.
  6. On February 20, 1978 Mr. Natrajan falsely debited the Calcutta Rupee Account with the sum of Rs. 1675.42 p. for Calcutta Cheques allegedly purchased, and misappropriated the proceeds, while no such cheques in fact existed.
  7. On February 20, 1978 Mr. Natrajan falsely debited the Bombay Rupee Account with the sum of Rs. 2324.58 for Bombay cheques allegedly purchased and misappropriated the proceeds, while no such cheques in fact existed."
6. These six transactions are similar in nature and relate to payments allegedly made on non existing cheques purported to have been sent to Calcutta and Bombay Offices for collection and may be conveniently dealt with together. Charges No. 2 and 3 relate to two amounts of Rs. 17532 and Rs. 14468 respectively debited to the Calcutta Rupee account and Bombay Rupee Account on January 27, 1978 by two debit vouchers photo copies of which are Ex. MW1/13 and MW1/14, which are admittedly prepared and issued by Shri S. Natrajan against Calcutta Cheques and Bombay cheques allegedly purchased by the bank against which Shri Natrajan paid cash according to the entries marked A and AA in his tellers record of transactions for the day photo copy of which is Ex. MW1/15. Charges 4 and 5 relate to similar debits of Rs. 10000 and Rs. 18000 made to the Calcutta rupee account and Bombay rupee account respectively by two debit vouchers photo copies of which are Ex. MW1/16 and MW1/17 prepared and issued by him against Calcutta Cheques and Bombay cheques allegedly purchased by the bank against which Shri Natrajan paid cash according to entry marked A in the teller record of transactions for the day photo copy of which is Ex. MW1/18. Charges 6 and 7 relate to debits of Rs. 1675.42 p. and Rs. 2324.58 p. made to the Calcutta rupee account and Bombay rupee account respectively by the debit vouchers photo copies of which are Ex. MW1/19 and MW1/20 prepared and issued by Sh. S. Natrajan against Calcutta cheques and Bombay

Shri Natrajan paid cash according to entries marked A and AA in Shri Natrajan Teller's record for transaction for the day photo copy of which is Ex. MW1/21. The Management has submitted that no such cheques in support of the debits existed in as much as no such cheques are traceable in the Bank's record nor does their exist any B. P. advice showing that any cheque supporting the debits aforesaid were sent for realisation. It has further been stated by the Management that debit tickets/vouchers in respect of rupee/BPs encashed are invariably and procedurally prepared by the cleaning clerk of the cash department only and not by the Teller making the payment. The teller making payment is expected only to transmit the instruments to the Cash Department for vouchering. In the present case, Shri Natrajan had no business to prepare the debit vouchers (Ex. MW1/13 to 20) and he obviously prepared the vouchers in lieu of the instruments. Similarly, rupee instruments FX (Foreign Exchange) Teller like Shri Natrajan and accordingly Shri Natrajan should not have been concerned against payment for such instruments. It has been urged that from this an inference should be drawn that Shri Natrajan dealt with these transactions with a view to fraudulently draw cash against non-existent documents. It has further been urged that the workman has tried to confuse the issue and hide the cash payment by stating in the debit tickets/vouchers (Ex. MW1/19 to MW1/20) that the proceeds of the cheques sent for realisation were credited to current account, while the Teller's record of transactions for the day (Ex. MW1/21) prepared by him shows the amount as having been paid by him in cash. The contention of the Management appears to be correct and is accepted. It may further be observed that in his confessional letters Ex. MW1/9 and MW1/10. The workman has admitted that cash withdrawals payments in question were supported by any cheques to justify these debits. Shri Natrajan's only defence is that these were authorised by officers of the bank who signed the necessary vouchers. In this regard the Management has explained that although the said debit voucher do carry the initials of the officer, the said initials are not meant to indicate physical verification of the supporting instruments but merely indicate that the voucher has been seen by an Officer who could have asked for the supporting documents if he had reason to be suspicious of the genuineness of the transaction. Officers initial hundreds of vouchers everyday in addition to their other duties. The Banking industry necessarily operates on faith and trust and that it is not physically possible for an Officer to verify the documents supporting each voucher and that vouchers must necessarily be initialled by officers in good faith with merely some sample verification done now and then. This explanation by the Management is quite plausible and is accepted and I hold that it is practically impossible for the initialling officer to carry out physical verification of each and every supporting instrument. It appears that taking advantage of this situation Shri S. Srinivasan in collusion with the workman has committed the frauds. In fact Sh. S. Srinivasan has admitted this fact in his confessional letters Ex. W-12 and W-13. The workman himself in his cross-examination has stated that :

"It is correct that most transactions were Revenue Account of the Bank and debits are put up for signatures at the end of the day, and as there are contra entries for checking it means that for every debit entry there is credit entry and in such cases random check is made. In the eight transactions-subject matter of the charge Bank's internal accounts have been debited and cash has been credited. Again said, discounted cheques have been debited and cash has been credited and no customers account has been debited in these transaction...."

The workman's own documents Ex. W-18 and W-29 to W-34 support the contention of the Management that reversing and fresh debit documents were prepared to camouflage the non-existence of the supporting cheques. In view of the foregoing discussion these charges stands proved against the workman.

## CHARGE NO. 8 :

7. According to the Management, on 9-2-1978 Shri Natrajan debited the cheques in course of Collection Account at the bank with the sum of Rs. 4200 by a debit voucher a photo copy of which is Ex. MW1/22 prepared and issued by him and it is indicated in his teller's record of transaction for the day copy of which is Ex. MW1/23, that he paid the amount in cash. As per the debit voucher payment was made against U. S. Dollars and drawn on Chartered Bank, Parliament Street, New Delhi in the sum of U. S. Dollars 522.48, while no such cheque exists on the bank records or was sent for collection. No instrument, cheque in fact did exist to support the debit. It has further been submitted by the Management that whenever the Foreign Exchange Instrument is encashed the encashment must be supported by an encashment memo prepared by the teller making the payment but no encashment memo in support of the memo was prepared in the present case by Shri Natrajan who was the teller concerned nor is there any communication of the payee on the record. Further on the day in question there was a surprise cash count by the visiting Corporate Auditor and it was therefore necessary that the cash balanced otherwise any short fall would have been immediately detected. There was in fact a short fall of Rs. 4200 in cash to cover which Sh. Natrajan, when the surprise cash account was carried out, made a false debit voucher/ticket showing the payment of the said sum of Rs. 4200 against U. S. Dollar cheque. In practice it is almost unknown that the rupee product of exchange conversion will be completely in round figures right up to paise and that too upto 9 digits. No encashment memo was issued nor was any signature obtained on the debit ticket from the payee by the workman. The T.I.D. report dated 12-1/8 Ex. W-17 is also relevant in this regard. In his confessional letter dated 19-4-78 Ex. MW1/9 the workman has stated as follows :

## 4. Debit voucher No. 001016 dated 9-2-78

At about 12.00 p.m. Sri S. V. Srinivasan came to my counter and gave me a slip, wherein he has mentioned cheque draws on Chartered Bank, New Delhi for U.S.S. 522.48 @ 12.44 Rs. 4200. Immediately I have made the voucher and gave him duplicate copy of the voucher and asked him to attach the cheque with that and asked him to give the document to Mr. Lal.

About the dollar cheque transaction i.e. U.S.D. 522/48 @ 12.44=Rs. 4200 after two weeks or so there was an enquiry about the transaction. My Department Incharge Lal asked me about it, immediately I could not recollect anything. Only on the next date I could recollect the transaction and immediately as soon as I entered in the office, I went to Mr. S. Srinivasan and asked him straightaway about the transactions. He requested me not to mention his name to anybody in the office. I told him that I have made the voucher and also here unnecessarily they will suspect me for nothing. Immediately I asked him what I have to do. He told me not to worry, I will manage it myself if anything goes on wrong I admit that after knowing about the transaction I did not tell to my officer concerned....."

In view of the foreign discussion this charge also stands proved against the workman.

8. In view of the discussion made above, these charges of fraudulent transaction have been proved against the workman and, therefore, the workman does not deserve to be retained in the service of the bank. However, the punishment of dismissal from service without any compensation for long service rendered appears to be a bit too harsh. It is to be noted that the workman had been in service of the respondent bank since the year 1966 and till his dismissal there was no complaint against him. Even workman has not taken any benefit out of all the 3 fraudulent transactions. It is the case of the Management itself that the

prime mover and real beneficiary of the fraud was the officer Mr. S. V. Srinivasan and that the workman was a foolish accomplice. The fact that the workman should easily become an accomplice in such fraudulent acts to assist his friend S. V. Srinivasan or to become the subject of black mail as alleged by him, solely excuses him from remaining in service of the bank. However, he cannot be allowed to be thrown on to the street without any compensation for the long service rendered, specially in view of the fact that he has not gained anything from the fraudulent transactions. It is, therefore, directed that it shall be deemed to be a case of simple discharge from service and the workman shall be paid a sum of Rs. 1,50,000 (Rupees One Lakh fifty thousand only) as lump-sum compensation and the workman will have no other claim against the management whatsoever. The Management shall forward a cheque or draft for the said sum of Rs. 1,50,000 to this Tribunal within one month of the enforcement of the award and the amount shall be deposited with the Post Master Parliament Street in the name of the workman in the Monthly Income Scheme. The workman shall be entitled to the monthly income which is expected to be Rs. 1500 p.m. and the principal shall not be paid to him till he attains the age of 58 years. If the amount is not paid within the stipulated date it shall carry interest at the rate of 15% per annum till actual payment. This reference stands disposed of accordingly.

21st June, 1989.

G. S. KALRA, Presiding Officer

[No. L-12012/168/80-D.II(A)]IR(Bank-1)]

का. प्र. 3019—औद्योगिक विवाद प्राधनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, कर्नाट सरकार गणेश बैंक कुरुन्दाव के प्रबन्धतंत्र के संबंध निवाजकों और उनके कर्मचारों के बीच अनुबंध संबंधित औद्योगिक विवाद में कर्नाट सरकार औद्योगिक प्राधिकरण, बम्बई क्वार्टर का प्रकाशित करता है।

S.O. 3019.—in pursuance of Section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Bombay as shown in the annexure, in the industrial dispute between the employers in relation to the management of Ganesh Bank of Kurundwad and their workman.

## BEFORE THE CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL NO. 2, BOMBAY

## PRESENT :

Shri P. D. Apshankar, Presiding Officer.

Reference No. CGIT-2/42 of 1986

## PARTIES :

Employers in relation to the management of Ganesh Bank of Kurundwad.

AND

Their Workmen

## APPEARANCES :

For the employers—Shri S. N. Desai, Advocate.

For the workmen—Shri G. P. Pansare.

INDUSTRY : Banking

STATE : Maharashtra

Bombay, dated the 19th June, 1989

## AWARD PART I

The Central Government by their Order No. L-12011/4/86-D.IV(A) dated 1-10-1986 have referred the following :



industrial dispute to this Tribunal for adjudication under Section 10(1)(d) of the Industrial Disputes Act, 1947:—

“Whether the demand of the workmen of Ganesh Bank of Kurundwad Ltd., Kurundwad, Maharashtra is justified for revision of :—

1. Wage Scale
2. Fitment Formula
3. Dearness Allowance
4. Special Allowance
5. House Rent Allowance
6. Leave
7. Uniform & Washing allowance
8. Medical Aid
9. Educational Aid
10. Leave Fare Concession
11. Promotion Rules
12. Transfer
13. Provident Fund Contribution
14. Effectiveness of service conditions w.e.f. 1-7-83

If so, to what relief the workmen are entitled and from which date?”

1. The workmen concerned in this reference are the employees of Ganesh Bank Ltd. of Kurundwad, Dist. Kolhapur. However, the workmen concerned are represented by the Kolhapur District Bank Employees Union, Kolhapur. The case of the workmen in question as disclosed from the statement of claim (Ex. 2/W) filed by the said Union, in short, is thus :—

Ganesh Bank Ltd., Kurundwad was established in the year 1920. In those days the small town Kurundwad was a jagir in the princely State of Kolhapur. The size of the bank in all respects continued to remain very very small. Later on, when all the States in India were merged in the Union of India, the Kurundwad jagir and Kolhapur State also got merged in the Union of India. The said bank is having 14 branches operating in southern Maharashtra and Northern Karnataka States. The total number of employees including the officers in the Bank is 87. The Wage scales of the employees of the Bank were fixed in the year 1966 i.e. more than 20 years back. However, since then there is no revision of wage scales, with the result the employees of the Bank are probably the lowest paid employees employed in the Banking industry. The Wage scales etc., were fixed on the basis of the recommendations of Justice K. T. Desai Award passed in the year 1962 which applied to all the Banks in India including the Bank in question. Later on, the said Desai Award was replaced by four different Bipartite Settlements, and the revision of wage scales were carried out. However, the said Bank was not a party to these Bipartite settlements.

(ii) The employees of Ganesh Bank Ltd. started getting organised only since 1982-83, and made representations to the Bank for the revision of their Wage scales. With a view to see that the Union does not get sufficient strength, the Bank management gave ad hoc increase at discriminating rates to officers and clerks from July 1983. The Wage scales already fixed for the employees of the Bank now need to be radically changed and revised upwards, so as to bring them on par with the employees of the other nationalised Banks. On 19-3-1985 the employees of the said Bank gave a notice of strike to the management of the Bank, and placed a 14 point charter of demands before it. Thereafter an

before the Regional

Labour Commissioner (C), Bombay. However, it ended in failure. Therefore, the Central Government made the reference, as above. The charter of demands includes the demands regarding wage revision, fitment etc. According to the Union all these demands should be fulfilled with retrospective effect from 1-7-1983.

3. The said Bank by its written statement (Ex. 3/M) raised a preliminary objection to the maintainability of the present reference and in substance contended thus :—

The said Bank is a party to the Desai Award. This Award is still in force, and many of the points raised by the Union have already been covered by that Award. Neither the workmen of the said Bank nor the Management of the Bank, has given a notice to terminate the Desai Award. Therefore, in view of the pendency of the Desai Award, the present industrial dispute, and the consequent reference made by the Central Government are infructuous, bad in law and not maintainable. Therefore, the said Bank prayed that this issue be tried as a preliminary issue.

4. The Bank filed its further written statement on merits at Ex. 4/M, and in substance contended thus :—

The financial conditions of the bank in question is a very low one, it is a very small bank as compared with the nationalised banks, and as such, it is unable to meet the demands of the Union, and that in case the demands of the Union are to be fulfilled, the bank will have to close down its business. The bank further contended that under the Desai Award, this bank has been placed in the excepted category, and has not been treated on par with the other big nationalised banks, and a separate wage scale was fixed for the Bank in question, and a separate wage scale for the other nationalised banks. (At this stage I am not narrating all the points raised by the Bank in its further written statement on merits to the claim of Union).

5. On these pleadings the necessary issues have been framed at Ex. 5. Issue No. 1 is being tried as a preliminary issue. Issue No. 1 is thus :—

1. Whether the present reference by the Central Government is infructuous, bad in law, and not maintainable in view of the continuance of the Desai Award to which the present parties are the parties?
6. My finding on this issue is in the negative.

#### REASONS

##### ISSUE No. 1

7. Shri Pradip Apparao Chivate, Secretary of the above said Union, filed his affidavit in support of the case of the Union in Marathi (Ex. 10/W). Its true English translation is on record at Ex. 10A/W. This witness was cross-examined on behalf of the Bank management at Ex. 11/W.

8. Shri V. B. Ghalwadkar, Officer on Special Duty of the Bank in question filed his affidavit (Ex. 34/M) in support of the contentions of the Bank. He was cross-examined on behalf of the Union at Ex. 35/M. Both the parties have produced a number of documents in this proceeding.

9. It is an admitted fact that Ganesh Bank Ltd. of Kurundwad was a party to the Award passed by the National Industrial Tribunal presided over by Justice K. T. Desai in 1962. As per Section 19(3) of the Industrial Disputes Act, an award shall, subject to the provisions of this Section, remain in operation generally for a period of one year. As per Section 19(6) of the said Act, notwithstanding the expiry of the period of operation under sub-section (3) the award shall continue to be binding on the parties until a period of two months has lapsed from the date on which notice is given by any party bound by the award to the other party,

or parties intimating its intention to terminate the award, both the parties have admitted that a notice is required to be given under Section 19(6) of the said Act and they did not give any notice in writing, and that an award can be terminated by giving a notice which may be an oral one, intimating its intention to terminate the award. It is an admitted fact that no notice in writing has been given until now by either the said Union or the Bank management terminating the operation of the said Award. It is true that subsequent to the passing of the Desai Award four Bipartite Settlement demanding the revision of their wage scales etc., and employees. However, it is also an admitted fact that the Bank in question was not a party to those Bipartite settlements, and as such the demands of the Union in question are unconnected with the decisions taken under those different bipartite settlements.

10. According to the said Union, even though the Bank employees have not given any notice in writing to the Management demanding the revision of their wage scales etc., and Union has entered into correspondence with the Bank Management demanding the revision of their wage scales etc., and by these letters etc. the Union has intimated its intention to the bank management to terminate the Desai Award. The said correspondence is thus :—

Ex. 12/W is a letter dated 7-9-1983 sent by the General Secretary of the said Union to the Chairman of the said Bank. Along with this letter, the Union submitted its charter of demands claiming revision of wage scales, Dearness Allowance etc. The said letter stated that the demands made by the workmen should be fulfilled by the management of the Bank within 15 days from the date of receipt of that letter, and the negotiations should be held in that respect, and that the Bank should fix a date for holding discussions. It is true that this letter did not specifically state that the Union was thereby terminating the operation of the Desai Award. Further, it is seen from this letter that the workmen of the said Bank were not satisfied with the service conditions then prevailing and that they wanted changes in those service conditions etc. Along with this letter the workmen submitted their charter of demands regarding revision of pay scales etc. and by this, the workmen have clearly expressed their intention to terminate the service conditions then prevailing as fixed under the Desai Award. According to me, the letter and the charter of demands impliedly, expressed the intention of the workmen and placed a new Charter of demands before the management whereby terminating the operation of the Desai Award. Therefore, even though no notice in writing has been given by the workman to the Bank terminating the operation of the Desai Award, the workmen by the said letter have expressed their intention to terminate the operation of the Desai Award.

11. The Chairman of the said Bank by his letter dated 3-10-1983 (Ex. 13/W) informed the Union to send a list of the Bank employees who were the members of the Union. This letter further stated that after the necessary list is received from the Union the letter of the Union will be placed before the Board of Directors of the Bank. Thus, the Bank conceded to the demands of the Union for fresh negotiations regarding the increase of pay scales etc. The Union by its letter dated 8-10-1983 (Ex. 14/W) informed the Bank that the Union in question is a registered trade Union, and the sole Union of that Bank. Ex. 15/W is a circular dated 24-10-1983 issued by the Union amongst its members. By this circular the members of the Union were to raise a certain label on their cloth and were to fix a particular notice on the Notice Board in each branch of the Bank. That label was to bear the words "Start negotiations with the Union for the just demands of the workmen". The notice board was to bear the words "we workmen are starting an action, members of public, customers, depositors etc. should extend their support". Thus by this action the workmen of the said Bank were trying to put an end to the previous service conditions of the Bank employees and had thus expressed their

intention to terminate the previous Award etc., even though no such words are appearing in that circular. Ex. 16/W is another circular dated 28-10-1983 issued by the Union that the members of the Union should give out certain slogans from 31-10-1983. Some of the Slogans were, "Negotia's with the Union, Unity of the Ganesh Bank Employees, delaying policy of the management condemned." Ex. 17/W is a copy of the letter of November 1983 sent by the Union to the Assistant Labour Commissioner, Kolhapur, that he should intervene in the industrial dispute between the Bank management and the Union. By the letter dated 10-12-83 (Ex. 18/W) the Union informed the Bank that the Union and the Bank had held some discussions and that they are prepared to hold further discussions with the Bank. On 19-12-1983 the Union sent another letter to the Bank (Ex. 19/W) that it seems that the Bank is not prepared to negotiate with the Union. In case no discussions are held upto 25-12-1983, the Union will take the necessary active steps in the matter from 26-12-1983.

12. The Chairman of the Bank by his letter dated 24-12-83 (Ex. 20/W) informed the Secretary of the Union that the demand of the Union is being placed before the Board of Directors of the Bank and that the date of negotiations will be communicated to the Union in due course. Thus, the Bank was also prepared to hold the necessary negotiations with the Union, and as such the Bank also wanted to change the previous service conditions of the Bank employees. By letter dated 12-1-1984 (Ex. 21/W) the Bank informed the Union that the Bank was inclined to increase the pay scales of the employees, but the final decision would be taken in the conciliation proceedings. On 7-2-1984 the Union sent a letter (Ex. 22/W) to the Bank that the Bank was avoiding taking part in the conciliation proceedings and the Bank should earnestly participate in the conciliation proceedings. On 6-4-1984 the Assistant Labour Commissioner Kolhapur sent a letter (Ex. 23/W) to the said Union as well as to the Bank. It is seen from this letter that the Bank employees had proceeded on strike. The Assistant Labour Commissioner by the above said letter made the proposal that the employees should not be paid wages of the strike period, however their absence should be treated as leave with or without wages as the leave may be in balance. Thus by going on strike, the members of the Union by their action had terminated the previous service conditions as fixed by the previous Award and wanted their pay scales etc. revised. By the letter dated 11-6-1984 (Ex. 24/W) the Union informed the Bank that the Bank should act as per the proposals of the Assistant Labour Commissioner regarding the demands of the employees on strike. On 11-6-1984 the Union sent a letter (Ex. 25/W) to the Assistant Labour Commissioner that the Bank was not responding in the matter and hence the Assistant Labour Commissioner should earnestly look into the matter. Ex. 26/W is another letter dated 16-10-1984, which speaks about the intention of the Union to terminate the previous service conditions and to get the new service conditions prepared. By this letter the Union submitted another charter of demands to the Bank. They claimed increase in the wage scales, Dearness Allowance etc. By this letter the Union informed the Bank that the Bank should concede to these demands within 15 days from the receipt of the letter, failing which the members of the Union would proceed further as per the letter, to get their demands realised. Thus, by this letter (Ex. 26/W) also, the members of the Union have expressed their intention to terminate the previous service conditions as fixed by the previous award, even though it is not specifically mentioned therein that they thereby were terminating the operation of the Desai Award. However, the intention of the Union from this letter is quite clear. It speaks about their intention to terminate the previous service conditions.

13. The witness for the management i.e. Shri V. B. Ghalwadkar also admitted in his cross-examination (Ex. 35/M) that at no time the Bank had informed the workmen that no negotiations would be held on the ground that Desai Award was not terminated and that no such contentions were raised by the Bank even in the conciliation proceedings.

14. The Bank by its letter dated 3-12-1984 (Ex. 27/W) informed the Union that the Bank had received the letter

from the Union along with the charter of demands, that it would be placed before the Board of Directors, and that the Union would be informed about the decision taken within two weeks. Thus, the Bank was also prepared to take the necessary steps in the matter to revise the wage scales etc. of its employees, and thus expressed its intention also to terminate the previous service conditions of the workmen as fixed by the previous Award. By the letter dated 2-9-1985 (Ex. 28/W) the Bank informed the Regional Labour Commissioner, Bombay that the Bank was not in a financial condition to accede to the demands of the Union and that it was running in losses. By the letter dated 1-5-1985 (Ex. 29/W), certain two employees of the Bank, by name S/Shri Dalvi and Selunke, informed the Bank that the Bank had not increased the pay scales after 1966 and the Bank should attend the conciliation proceedings at Bombay before the Regional Labour Commissioner on 20-5-1985.

15. It is seen that after the present reference was made to this Tribunal, some of the clerks and Peons of the Bank entered into settlements with the Bank regarding the increase of their wages. Ex. 7/M is a copy of the settlement dated 1-8-87 between certain seven clerks and the Bank management. Ex. 8/M is a copy of the settlement dated 1-8-1987 between certain 15 peons and the Bank management. By their letter dated 6-6-1988 (Ex. 9/M), the Bank management increased the pay scales of 19 officers. Ex. 30/M, 31/M and 32/M are the copies of the resolutions passed in the meeting of the Board of Directors of the Bank on 25-5-1988, 9-8-1987 and 20-5-1987 i.e. during the pendency of this reference. It is seen therefrom that the Bank increased the pay scales with effect from 1-4-1987 of nine clerks out of 34 clerks, and 13 peons out of 22 peons, and of some officers. Thus the Bank was also inclined to revise the previous pay scales of the Bank employees. As noted above, the Union by its first letter on 7-9-1983 (Ex. 12/W) expressed its intention to terminate the previous service conditions (fixed under the then prevailing Award). A period of two months certainly elapsed thereafter. By the other letter dated 18-10-1984 (Ex. 26/W) the Union submitted another charter of demands to the Bank and expressed its intention to put an end to the previous service conditions (fixed under the previous Award). A period of two months also has elapsed since sending that letter to the Bank. Therefore, the previous Desai Award stood terminated on the expiry of the said two dates. As such the present reference made by the Government is not infructuous, bad in law and unmaintainable in law, and that the operation of Desai Award ceased to be in force on the expiry of the period of two months after sending the said two letters by the Union to the Bank.

16. As noted above, the Union submitted its first Charter of demands by its letter dated 7-9-1983 (Ex. 12/W) to the Bank management. It was received by the Bank management a few days thereafter. By this letter the Union had demanded the increase of pay scales etc. of the employees and thereby had impliedly terminated the previous service conditions of the employees. A period of two months has elapsed from the date of which that letter and the charter of demands were received by the Bank. As such the Desai Award ceased to be operative two months after the Bank management received the said letter and the charter of demands. In the result, for the above said reasons as discussed above, Issue No. 1 is found in the negative.

P. D. APSHANKER, Presiding Officer

19-6-89

[No. L-12011/4/86-D.IV(A)/IR(Bank-I)]

का. प्र. 3020—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय रिजर्व बैंक, लखनऊ के प्रबन्धन के संबंध में निम्नलिखित और उनके कर्मचारों के बीच अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चंडीगढ़ के पंचपट को प्रकाशित करती है।

S.O. 3020.—In pursuance of section 17 of the Industrial Disputes Act, 1947 (14 of 1947), the Central Government hereby publishes the award of the Central Government Industrial Tribunal, Chandigarh as shown in the annexure in the

industrial dispute between the employers in relation to the management of Reserve Bank of India, Chandigarh, and their workman.

BEFORE SHRI M. S. NAGRA, PRESIDING OFFICER,  
CENTRAL GOVERNMENT INDUSTRIAL TRIBUNAL-  
CUM-LABOUR COURT, CHANDIGARH

Case No. I.D. 86/88

PARTIES :

\*Employers in relation to the management of Reserve Bank of India, Chandigarh.

AND

Their workmen :

APPEARANCES :

For the workmen—Shri Parminder Singh.

For the management—None.

INDUSTRY : Banking

STATE : U.T. Chandigarh.

AWARD

Dated 31st of May 1989

On a dispute raised by certain workmen of Reserve Bank of India, Ministry of Labour vide No. L-12011/4,88-D.IV(A) dated 2nd November, 1988 had referred the following dispute to this Tribunal for decision :

"Whether the action of the management of Reserve Bank of India, Chandigarh in not appointing Ticca Mazdoors as listed below on regular basis is justified ? If not, to what relief are the workmen concerned entitled?"

Sarvshri

1. Vidya Sagar
2. Ashok Kumar
3. Ram Kishan
4. Chet Ram
5. Om Parkash
6. Padam Dev
7. Harnek Singh
8. Dharam Pal
9. Avtar Singh
10. Gain Singh
11. Sat Pal
12. Rajbir Singh
13. Mohd Jamil
14. Rajesh Kumar
15. Kulwant Singh

2. Case was fixed for 21-6-1989 for filing of replication by the workmen. Workman has moved an application through their authorised representative requesting that they do not want to pursue the matter any further and the same may be treated as withdrawn. In view of the application and request of the workmen a No Dispute Award is returned.

Chandigarh

31-5-1989

M. S. NAGRA, Presiding Officer

[No. L-12011/4/88-D.IV(A)/IR(Bank-I)]

का. प्र. 3021—औद्योगिक विवाद अधिनियम, 1947 (1947 का 14) की धारा 17 के अनुसरण में, केन्द्रीय सरकार भारतीय रिजर्व बैंक, लखनऊ के प्रबन्धन के संबंध में निम्नलिखित और उनके कर्मचारों के बीच अनुबंध में निविष्ट औद्योगिक विवाद में केन्द्रीय सरकार औद्योगिक अधिकरण चंडीगढ़ के पंचपट को प्रकाशित करती है।

S.O. 3021.—In pursuance of section 17 of the Industrial Dispute Act, 1947 (14 of 1947), the Central Govt. hereby publishes the award of the Central Government Industrial Tribunal, Kanpur as shown in the annexure, in the industrial dispute between the employers in relation to the management of Reserve Bank of India, Lucknow, and their workman.

BEFORE SHRI ARJAN DEV PRESIDING  
OFFICER CENTRAL GOVERNMENT INDUS-  
TRIAL TRIBUNAL CUM LABUOR COURT,  
KANPUR

Industrial Dispute No. 118 of 1988

In the matter of dispute

BETWEEN :

The Secretary  
Reserve Bank of India Employees Union  
C/o Reserve Bank of India  
Lucknow-226003

AND

The Officer Incharge  
Reserve Bank of India  
2 M G Marg Lucknow.

AWARD

1. The Central Government, Ministry of Labour, vide its notification no. L-12011/6/88-D-4(A) dated 28-9-88, has referred the following dispute for adjudication to this Tribunal :

"Whether the action of the management of Reserve Bank of India, Lucknow was justified in maintaining the combined seniority with that of Kanpur office in respect of Shri Narendra and 200 other clerical staff affecting their promotion avenues etc. If not, to what relief are the concerned workmen are entitled?

2. The industrial dispute has been raised by the Secretary, Reserve Bank of India Employees Union, Lucknow (hereinafter referred to as Union Lucknow). There case of the Union Lucknow is that the Lucknow office of the Reserve Bank of India (hereinafter referred to as RBI) was opened as a totally independent office in 1954. The office at Lucknow function directly under the RBI Central Office with independent and separate seniority of class III and class IV employees. However, in 1966, the Lucknow office was merged with the Kanpur, Office of RBI and seniority of section of class III staff a viz., that of clerks i.e. Coin Note Examiner of Lucknow office was linked with that of Kanpur Office. But in respect of certain categories of class III employees such as typists and stenos the seniority between Lucknow Office and the Kanpur continued to be maintained separately.

The Union Lucknow, alleges that since the Lucknow Office is a permanent office there appears to be no rational behind keeping a combined seniority even in respect of the above category of clerical staff of the two classes. The maintenance of combined seniority in such category of class III employees is highly detrimental to the staff of Lucknow Office as their promotional chances are jeopardized because of their being shared by the corresponding staff of Kanpur Office.

The Union Lucknow, therefore, has prayed that the orders be passed separating the seniority with the clerical/coin note examiners of the two offices.

3. On 4-1-89, the Sectt. Reserve Bank Employees Association Kanpur, (hereinafter referred to as Employees Association Kanpur) moved an application for being impleaded as a party. The application was allowed and time was given to Employees Association Kanpur for filing written statement.

4. Employees Association Kanpur, pleads that clause 10 of the settlement dt. 7-5-72 arrived at between the management and the Employees Association Kanpur, provides that Kanpur and Lucknow Office of RBI would be deemed to be one office. It also provides for office wise combined seniority. With the operation of combined seniority between the two offices for the last 17 years rights have been created and benefits have accrued to the members of Employees Association in both the offices and as such these rights cannot be disturbed simply because of minority Union now feels that the seniority of the members of the staff in the two offices be separated. In fact the minority Union now disputing the settlement dt. 7-5-72, was not in existence at that time. The above settlement has been considered even by the Hon'ble Supreme Court of India on more than one occasions and the Highest Court has found the said settlement as not violative of any Articles. It is incorrect to say that the claim of combined seniority is detrimental to the staff of Lucknow Sub Office.

5. The management have also filed the written statement. They plead that Union Lucknow is an unrecognised union. The demand raised by the Union Lucknow relates to an issue which by itself cannot be a subject matter of industrial dispute within the meaning of the Industrial Disputes Act. Kanpur Office and Lucknow Sub Office of RBI have been treated as one office and both the offices are under the same administrative control of Kanpur Office. In fact, the question of delinking of the seniority of staff working in two offices is a matter relating to the Administration of the Bank. The Regional Office of the erstwhile Agricultural Credit Department was set up in the Lucknow in the year 1954. The staff including typist stenos etc. etc. attached to the said department had at separate seniority from the Kanpur Office despite the fact that the department was under the administrative control of Kanpur Office. The management have been treated as one office and 1

In terms of clause 10 of the said settlement a combined seniority list has been maintained of clerks/coin note examiner attached to the two offices and promotions are being effected on the basis of combined seniority list. In December, 1981, a sub office of Kanpur office was opened at Lucknow and option was allowed to the employees in order of their seniority to go to Lucknow. Some of the class III employees working at Kanpur office, though junior, preferred to go to Lucknow Office and accordingly they were transferred to Lucknow. In 1981, the clerks/coin note examiner working in the two offices were governed by main seniority. Moreover, the issues raised by the Union Lucknow is pending consideration in Writ Petition No. 2977/80 filed by Shri S. K. Mehrotra and others before the Hon'ble High Court of Allahabad, Lucknow Bench. As such it is not proper and reasonable for the Union to move this Tribunal for deciding the issue during the pendency of the said writ petition.

6. Despite the fact that twice opportunity was afforded to the Union Lucknow for filing rejoinder.

No rejoinder was filed by the said Union. On 23-6-89, 4-7-89 was fixed for filing affidavit evidence by Union Lucknow. The Union Lucknow did not file any affidavit evidence in support of their case. There up on 3-8-89 was fixed for filing of affidavit evidence by Employees Association Kanpur and by the management. On 3-8-89 the management filed an affidavit of Shri Radha Mohan Dwivedi, Personnel Officer. By means of application dt. 3-8-89 Shri I. K. Dwivedi a representative of Employees Association Kanpur adopted the affidavit filed on behalf of the management.

7. Since no evidence has been adduced by the Union Lucknow, in support of industrial dispute raised by it the Tribunal is compelled to answer the reference against the Union Lucknow.

8. Accordingly, the reference is answered against the Reserve Bank of India Union, Lucknow.

ARJAN DEV, Presiding Officer

[No. L-12011/6/88-D.IV(A)/IR(Bank-I)]

PADMA VENKATACHALAM, Dy. Secy.